The Churchman.

VOLUME XVII. No. 35. THE CHURCH OF THE LIVING GOD, THE PILLAR AND GROUND OF THE TRUTH.—1 Tim. iii.—15. WHOLE NUMBER 867.

PUBLISHED FOR THE PROPRIETORS. NEW-YORK, SATURDAY, OCTOBER 30, 1847. AT No. 12 JOHN STREET.

MEETING OF THE GENERAL CONVENTION, FOR 1847.

Ninth Day's Session—Continued.

Rev. Richard Mason moved that the Committee on Canons be instructed to inquire into, and report on the expediency of altering the second section of the Canon of 1815. Referred.

Rev. Dr. Hawks desired to ask leave of the House that the Rev. Mr. Cuming, of Michigan, might absent himself after this week.

Mr. Cuming said that it was three months since he left home, and he wished to return as soon as possible. Urgent reasons attracted him home, not the least of which was that his church is vacant, and will remain so till he returns.

Rev. Dr. Forbes moved that all such applications be, hereafter, referred to the Committee on Elections.

The President After this.

Rev. Dr. Mead wished to know whether the Committee would have the power to grant a leave of absence.

President—No; they could only report.

Mr. Cuming, by a vote of the House, was granted leave to go home.

Mr. Page referred the Convention to Canon 6, of 1832, and said he wished it referred to the Committee, with instructions to amend it in the third line, so as to make it read:—

"When a Bishop of a diocese is unable, by reason of old age, or other permanent cause of infirmity, to discharge his Episcopal duties, one Assistant Bishop may be elected by, and for the said diocese, who shall be nominated by one Convention, and elected by another, and who shall in all cases succeed the Bishop in case of surviving him. The Assistant Bishop shall perform such Episcopal duties, and exercise such Episcopal authority, in the diocese as the Bishop shall assign to him; and in case of the Bishop's inability to assign such duties declared by the Convention of the diocese, the Assistant Bishop shall, during such inability, perform all the duties, and exercise all the authorities, which appertain to the office of a Bishop. No person shall be elected or consecrated a suffragan Bishop, nor shall there be more than one Assistant Bishop in a diocese at the same time."

The object of this alteration was, he said, the promotion of good order and general satisfaction in the Church.

The matter was referred.

An invitation from the directors of the Deaf and Dumb Institution to visit that establishment at any time the members may see fit, was read.

A member moved that the invitation be accepted, and, in order to do so, that the House do now adjourn.

Rev. Dr. Hawks hoped that the motion to adjourn would not be pressed.

A member said if the Convention remained any longer in session without any special business before it, there would be some additional Canons referred to the Committee—more than could be attended to.

Dr. Hawks replied, that if Canons are referred to that Committee, which they think ought not to be altered, the Committe will simply report that it is not expedient to alter them. As regards the invitation, it is due to the gentlemen who sent it to accept it, and as some of the members may wish to visit that institution, which he could say was an excellent one, he would suggest that Saturday be the day designated as the time at which they are willing to accept the hospitalities tendered to them.

A member—say 12 o'clock.

Dr. Hawks was willing to adjust the difference by saying 1 o'clock.

The motion to accept, and to adjourn to-morrow at 1 o'clock, so as to visit the institution, was then put, and carried.

A motion was made that the matter of the election of the Assistant Bishop of Illinois be made the order of Saturday, was carried.

Rev. Dr. Burgess asked if there was not a communication from the House of Bishops before this House, to the effect that they had passed a resolution to hold the next General Convention in Philadelphia; and on being informed that there was, he moved that it be concurred in by this House.

Dr. Hawks hoped that the House would not concur in that resolution. He hoped that Cincinnati would be substituted for Philadelphia, and begged the House to hear him for a moment. The fact is, the condition of the Church now is very different to what it was a few years ago, in point of numbers and localities, where those numbers can be found. It might have been very well when the Church had no extension except in the eastern States, to appoint New York or Philadelphia as the place of holding the General Convention, because then they were the most central places; but the case now is very different. Now we know Cincinnati to be the most central place in the United States, and it offers more facilities for holding the Conventions than any other place. I have come, said Dr. Hawks, two thousand miles to attend this Convention, and to reach Cincinnati would be but sixteen hundred. How is it with our brethren of the East? The facilities of reaching New York or Philadelphia are numerous. In three days you can reach New York, or almost any part of the East from Cincinnati, and it would take us much longer. Would it, besides, be asking too much of our Eastern brethren to inconvenience themselves a little for the sake of the growing Church in the West? There is another reason which he would adduce for holding the next Convention in Cincinnati, and he thinks it is a strong one. It has been my luck to see the growth of the Church, and of the empire of the West, and no matter what may be the political changes of the country, the Valley of the Mississippi must be the empire. That valley is a stronger bond to the confederacy of the States than any bond that human institutions can make. In the State in which I now live, we bring our influence to bear on an extent of land which gives us forty thousand miles of inland navigation. Our brethren of the East know nothing of the influence which will be exerted in that part of the country by the meeting of the General Convention there. The Church in Ohio has progressed with such gigantic strides, as to be without a parallel; and if the members of this body will but come among us—if they will only come and look at it—if they will but give us their presence there once, the moral influence of it will be tremendous; you will comfort our hearts and strengthen us. The sacrifice is but small, and he would implore brethren not to act hastily in this matter. And although the time has not yet come for the Church to hold its General Convention there, the next census will show that we will exert a preponderating influence over the East. I hope gentlemen will consider the question calmly, and that they will find the difference in attending the West, so trifling that they will allow the next Convention to be holden there.—From Pennsylvania you can reach Cincinnati in two days, and take Louisiana, Florida, Mississippi, Alabama, and Tennessee, we can all reach that spot much easier that we can any other place you can designate.

Judge Chambers rose, for the purpose of substituting the city of Baltimore in preference to either of the other places. Gentlemen do not appear to think of the expense they would be put to in going to Philadelphia. The last Convention there cost five or six hundred dollars, a sum which might be spared for better purposes. Baltimore is regarded as the most convenient and central spot for holding all conventions. Parties collect there from all parts of the Union, and it is in his opinion the most desirable position of the kind. Prejudiced as he is in favor of his city, he would not venture on describing it in such glowing terms as the gentleman from the West has spoken of that part of the Union. He could only say that he would promise the members of the Convention a most hospitable reception.

Mr. Wharton said the gentlemen proceeded on the supposition that the interests of the Church are best promoted by the meetings of the General Convention in particular spots. He would suppose that that consequence does not necessarily follow. He would rather suppose that such a consequence does not follow at all, and in his opinion the interests of the Church are best promoted by the exercise of its divine functions, and not on the holding of the General Convention in particular parts. He thinks it more a matter of convenience, and he recollects the same arguments were brought up to induce the Convention to meet in some interior town in Pennsylvania.

Dr. Hawks said the gentleman from Pennsylvania certainly misunderstood him, if he supposed that he named Cincinnati on the simple ground that the interests of the Church would be benefited by it. The chief strength of the Church lies in the purity of her ministers. But the analogy which he introduces between an interior town in Pennsylvania and the city of Cincinnati will not apply. Cincinnati is no little town—it is not a suburb of either New York or Philadelphia. It is as large as the city from which the gentleman has come. It contains two hundred thousand inhabitants, and is the largest city on the other side of the mountains.

The debate on this question was continued further; after which, by a vote nearly unanimous, Cincinnati was voted as the place for holding the next General Convention, and a resolution adopted that the House of Bishops be informed of the non-concurrence of this House in their resolution fixing upon Philadelphia.

The House then adjourned to half-past nine o'clock this morning.

Tenth Day's Session—continued.

Saturday, Oct. 16th, 1847.—The Convention met pursuant to adjournment.

Morning Prayer was said by the Rev. Francis Vinton, D. D., Rector of St. Paul's Church, Boston, Mass., assisted by the Rev. George Burgess, D. D., Rector of Christ's Church, Hartford, Con., and Bishop Elect of the Diocese of Maine, reading the letters.

The minutes of the preceding day were read by the Assistant Secretary and approved.

Rev. Dr. Neville was about to offer a resolution, when the President announced a Message from the House of Bishops of the concurrence on the Canon presented to them in reference to the Trustees of the General Theological Seminary.

Rev. Dr. Neville said he had a resolution to offer, on a subject which had already occupied the attention of the house, but to which he felt himself obliged again to advert. He had been informed that a number of gentlemen who had been supporters of the church for years past, and were warmly attached to it, had been refused admittance to hear the debates of this house. He himself had been asked by several gentlemen who had come from distant parts, whether they could not be admitted, and it appeared to him, that if such were not admitted, the subject had not been considered in its proper light. The question which had divided the church so long, had excited a great deal of interest; and the debates would be willingly listened to by persons, if they could get admittance. We had been told yesterday, as an argument for holding the next general convention in the West, that it would exercise a great moral influence on the people there; and he would ask, would it not have the same effect here? If this assembly be to produce a moral effect in the West, he would ask whether it would not have the same influence here? It had been said that the public reports of the proceedings would have the same effect as if the debates were listened to by those who read them; but it was not so—oral admonition was the best of all kinds of instruction. Only think, he said, what would be the effect if the gentleman from Maryland's lucid explanation of the canons, of the church yesterday had been heard by a large number of persons, instead of the limited number who were here. It seemed to him that we should consult the feelings of the citizens generally, and allow all who could find room to be admitted.—Looking up to the galleries, he said, see how vacant they are, how lonely! and should we refuse the use of the galleries to those who may wish to attend here? He offered a resolution that the members of the convention have leave to introduce their friends, provided there was room for their accommodation.

After some remarks by Rev. Drs'. Mead, Van Ingen and others.

Mr. Collins moved to lay the whole subject on the table. Carried.

Rev. Dr. Hanckel, from the Committee on the General Theological Seminary, then reported the names of the gentlemen who had been elected Trustees from the various dioceses.

The report was accepted and the nominations confirmed

Rev. Mr. Kelley, of Illinois, then moved to take up the special order of the day, in reference to the election of the Assistant Bishop of the Diocese of Illinois.

The House voted to take it up.

Rev. Mr. Kelley then moved that the House proceed to sign the testimonials for his consecration, and that when signed by a constitutional majority, they be sent to the House of Bishops for their approbation.

Rev. Mr. Giddinge, of Illinois, said he wished to lay before the House a few facts having a bearing upon the subject before the vote was taken. They would tend to show that the Convention of the Diocese had never yet expressed an opinion as to the ability or disability of the Bishop, to perform the duties of his office, and secondly, that there had never been an election of an Assistant Bishop by the Diocese. He would commence by referring to an extract from the address delivered by the Bishop to the Convention in 1846, in which he stated that he had become a cripple, and that his usefulness had thus, in a measure, been lost or destroyed. In consequence of this, he advised them to appoint an Assistant Bishop, but he could not think of their electing one to the same dependent state which it had pleased God he should occupy among them. He would himself be carried in a litter, at his own expense, from place to place, for the performance of Episcopal functions, rather than see his successor suffer the privations which had fallen to his lot. Nevertheless he had been thankful for the blessings he had enjoyed, and had always regarded them as the direct gift of his Heavenly Father. When this, Mr. G. continued, had been read before the convention, so much of it as related to the appointment of an Assistant Bishop was referred to a committee to consist of *three* clergymen and *five* laymen. Now, where, Mr. Giddinge asked, is the evidence that this committee had been appointed? Where is the evidence that it has ever reported? He left it for the convention to discover. In the address to the convention of 1847, the Bishop made no allusion to the subject of an assistant; but on the second day, we have on the journals a brief statement that the "convention met pursuant to adjournment; and that a communication was made by the Bishop requesting the election of an Assistant Bishop, whereupon it was resolved that the convention proceed to elect an Assistant Bishop." That is the whole account. The next morning the Bishop took his seat. A motion was made that the convention proceed, with closed doors, to elect an Assistant Bishop. The Bishop then nominated an individual, stating that he had conferred upon the subject with the committee, recommending him highly, and urging instantaneous action, and that with closed doors. In regard to what followed, Mr. Giddinge said he would adopt the statements and arguments of a paper which he held in his hand.

Rev. Mr Kelley said he objected to the introduction of any statement from a public paper.

The President and Rev. Dr. Mead, and one or two others, remarked, simultaneously, that the gentleman adopted them as his own.

Rev. Dr. Brooke asked the name of the paper, and was told that it was the "*Gospel Messenger.*"

Mr. Giddinge then read the letter referred to. It was written to confirm statements which had appeared on the subject in the *Churchman*, and went on to state, in detail, that the Bishop, in convention, directed the doors to be closed, as he had important information to impart to them. When the doors were closed, he alluded to the infirm state of his health, and spoke of the expediency of having an Assistant Bishop elected; and from the fact that Rev. Mr. Britton sympathized with him, he nominated him as his assistant, and suggested that his election be proceeded with immediately; remaking, that in case the gentleman named by him was not elected, that he should not bring the matter up again during his lifetime. The convention—at least a portion of its members—protested against the exercise of this arbitrary authority, but deemed it expedient, under the circumstances, to elect Mr. Britton. A motion was made for postponement. There was much excitement; the Bishop walked up and down the chancel, smiting his forehead with the open palm of his hand. The Rev. Mr. Britton was declared elected.—A protest was made against the Bishop's nominating his successor. The letter spoke in terms of great severity of the action of the Bishop, and while Mr. Giddinge was reading this portion,

Rev. Mr. Young rose to a point of order, who said that the gentleman was indulging in personalities in reference to the Bishop of Illinois, which the House ought not to sanction.

Mr. Collins differed, and thought that the conduct of the Bishop was vital to the question.

The President did not understand the remarks to be out of order, and should so pronounce, unless the gentleman appealed.

Rev. Mr. Young said he would not take an appeal.

Rev. Mr. Giddinge said he would add but a few words. As there had been no choice of individuals before the Convention, he denied that there had been any proper election of an Assistant Bishop. He admitted that there had been a confirmation of a nomination made in the manner stated; but that there had been any free election, he did most positively deny, and called for the evidence.

Rev. Mr. Kelley would say a few words in reply to what had been read by the gentleman. He should be obliged to speak at a disadvantage, relying only upon his memory for facts, while the gentleman had the benefit of a written document. The present venerable Bishop of Illinois was unable to perform the duties of his office, except with great suffering and inconvenience. He had requested the election of an Assistant, and the Convention had directed a reference of the matter to a Committee. But there is no evidence that this Committee was ever appointed; and thus the Convention left the matter in the hands of the Bishop to make such statement as he should deem proper in 1847. The gentleman had proceeded to state certain facts in regard to the election, and said that none of the clergy had any intimation with regard to the individual to be elected.

Rev. Mr. Giddinge said he did not mean that none of the clergy had any knowledge upon the subject, but that the Convention had no *official* knowledge. He knew not what caucuses might have been held—he was not behind the curtain.

Mr. Kelley said there could, of course, be no official information on the subject, because no Committee had been appointed. The Convention had left it all in the hands of the Bishop to commence *de novo*. And now he would state the facts just as they had occurred—meaning "nothing to extenuate, or aught set down in malice." On the morning of the second day of the Convention, he was requested to attend a conference at the house of the Bishop, with the Rev. Mr. Dresser. The Bishop then stated his inability to perform the duties of his office, and desired that an Assistant Bishop might be appointed, naming the Rev. Mr. Britton, and asking if we would approve of him as an Assistant Bishop. He (Mr. K.) knew nothing then of Mr. Britton; but the evidence submitted of his character left no ground for hesitation in promising either to nominate him, or support his nomination.

Rev. Mr. Young here asked if there had been any other person named.

Rev. Mr. Kelley said not by the Bishop. On the second morning of the Convention, the Bishop came into the church, and after prayer said, that before the Convention should open, he desired to make a communication, in an informal manner, and desired that the doors might be closed. This was before the opening of the Convention. He then stated the nature of the application he was about to make,—saying that from his extreme age and great bodily infirmities, he was unable to perform the duties of his office;—that it had become necessary to apply for an Assistant Bishop; and that after deliberation upon the whole matter he thought it best to state that a gentleman had occurred to his mind, whom he was anxious to have as an Assistant, on account of his piety and purity of character, and of his writings which he had read; that he was not personally acquainted with him, but from the evidence he had of his character, he had no hesitation in saying that he was capable of filling the office; and he then mentioned the Rev. James B. Britton, of Chilicothe. In the Convention, after the doors were opened, the question arose whether they should go into the election or not. To the best of his recollection, *three* gentlemen objected, whom he could name if it were proper. One fact he had forgotten to state, and he certainly did not desire to omit it. In the address made by the Bishop, he did say that if his proposition was not accepted he hoped they would say so at once, and let the whole matter drop. If they did not elect Mr. Britton he did not wish them to elect any one else. He was not understood by those present, as meaning to dictate, nor was it said in open Convention. When the motion to go into an election was made, but three objected; and there was, so far as he knew, no such excitement as had been spoken of. He saw nothing of it. That the Bishop was anxious about the result, as any one would be, there could be no doubt. No one could doubt that he would be very desirous to have some one with him who could co-operate with him in the regulations of his diocese. And for this he had a good precedent; Bishop Griswold once expressed a similar desire, and in another case the same thing had happened, and both placed before their Conventions the names of persons whom they wished to have elected. He could not see that there was anything extraordinary in the fact that Bishop Chase should follow their example. It was decided that they would go into an election. During the recess of two or three hours, he made inquiry of members as to the character of Mr. Britton, and, among others, of the Rev. Mr. Giddinge, who spoke in the highest terms of the individual nominated, and made no objection, either then or afterwards, either to the man, or the manner of his nomination—certainly not to him. In the afternoon the Convention assembled, and he (Mr. Kelley) made the nomination of Mr. Britton as Assistant Bishop, which was seconded by Mr. Dresser. Not a word of objection was made. Not a single voice was raised against the whole proceeding. The Convention went into ballot. He was one of the tellers, and there were only three votes against the nomination, two nays, and one vote with the name of Charles Dresser upon it. It was decided by a large majority, and Mr. Britton declared elected. While the papers were being prepared, he (Mr. Kelley) stated that since the question had been decided by so large a majority, he hoped the two or three who had voted against it, would forego their opposition, and that all would sign the papers, so that the Assistant Bishop might be welcomed among us by a united voice. When the papers were ready, Rev. Mr. Giddinge was the first to come forward;—he said he agreed with him entirely and would be the first to sign the testimonials; and his name now stands first on the list. But it is said that doubts are still entertained whether the Bishop is unable to perform his Episcopal functions. Let any gentleman follow his labors forty or fifty years, diligently and faithfully pursued, and then say whether he is not entitled to spend the rest of his days in peace, and in the enjoyment of that rest which his great age and infirmities demand. Under the Jewish law priests were required to be between 30 and 50 years of age, in order to save them, when they became old, from the extreme labors of that office. The Bishop of Illinois has travelled for years through the length and breadth of the land; he has labored in season, and out of season, in performance of Episcopal functions, and in making known the glad tidings of peace;—and now shall we, here assembled, refuse him the assistance he asks, and reject a gentleman whose character stands as fair as that of any gentleman on this floor, elected by a large majority, because two or three persons object, and ask us to declare that there was no election? The whole matter as it appeared to him, turned upon the question, did the election take place? The testimonials had been handed in, proving that it did; and the slight omission in these testimonials, objected to by the Committee, has been since supplied. He hoped the diocese would not now be thrown back and compelled to dismiss their classes for confirmation, as they had often been obliged to do, through the inability of the Bishop to attend and confirm the candidates. He trusted this Convention would not carry its prerogative so far as this.

A Message from the House of Bishops was received, announcing that they had referred to a joint Committee the letter addressed to the Convention by the Historiographer of the Church: and that they had appointed as members of this Committee, on their part, Bishops Delancey, Elliott, and Lee.

Rev. Mr. Giddinge said he did not wish to be considered as expressing any thing to the injury of the Bishop of Illinois, whom he venerated, respected, and honored. But he must be allowed to bear his testimony that when but one individual had been nominated, and when that nomination was coupled with an assertion that, if it were not ratified, no other would be made during the life-time of the Bishop, there was in fact no election, though the Convention might, under the pressure of circumstances, have confirmed the nomination. Had the members been made aware of the design, there would have been other nominations made, as other names had been thought of. In regard to evidence of inability on the part of the Bishop, the testimonials were incomplete. That evidence must come in the form of official documents: yet we are asked to receive it on the testimony of three individuals. The documents should be required, as the case will be made a precedent, and should be settled, not by appeals to sympathy, but upon principle.

Mr. Conyngham called for the reading of the testimonials to the election of the Assistant Bishop, which were read by the Secretary.

Mr Newton inquired whether the Diocese of Illinois had, by its Constitution and Canons, provided a mode for the election of a Bishop and Assistant Bishop, and if so, what its provisions were—whether it was to be done by nomination of the clergy, to be confirmed by the laity, or in what way it was to be made.

Rev. Samuel Chase, of Ill., said there was no such a provision: that the nomination was to be made by the clergy, and submitted to the laity, and that it was strictly complied with in this election.

Hon. Mr. Newton said if he understood the gentleman, the nomination, according to the Constitution and Canons of the Diocese, was to be made by the clergy, and afterwards confirmed by the laity. He now asked if we had not been informed, from the opposite sources that the nomination was made by the Bishop, with the understanding that no other should be acted on.

Rev. Mr. Giddinge said that both clergy and laity voted together.

Rev. Mr. Chase said that not having the Constitution before him, he could not be precise in his reference to it. But he recollected that the statements made by the Bishop were informal,—were no part of the proceeding. The nomination was made in the afternoon—subsequent to these remarks, and in strict accordance with the Constitution and Canons. The naming of a candidate was not regarded as a compliance with the Constitution. It was extra-canonical, though not uncanonical, and he thought gentlemen would recognise the distinction. As to collecting the votes, the gentleman had made a mistake. He was the Secretary, and designated the mode of doing it. The clerical vote was collected first, and then the vote of the laity.

Rev. Mr. Moore asked if the clerical vote was declared, before the lay vote was taken.

Rev. Mr. Chase said he was under the impression that it was.

Rev. Mr. Dresser said his impression was different. The Constitution, he thought, prescribed that they should vote separately, but their votes might be taken together.

Rev. Mr. Chase acceded to this statement,

Rev. Dr. R. Mason called for the reading of the Constitution and the Canons.

Rev. Dr. Vinton asked if this discussion was at all in order. He recollected that in this House, two sessions ago, a question was started as to the right of the delegation from New York to their seats, on the ground that in electing them there had been some violation of the Constitution and Canons of the Diocese. It was referred to a Committee learned in the law, and their report was that we had no right to go behind the authenticated documents—we had no right to enquire whether the Convention of New York had kept their own rules. Now we have here the testimonials of the election of an Assistant Bishop. Are they *forged*, or are they *false?* No one pretends that they are forged. To prove that they are false, we have the testimony of only one individual, contradicted by that of several others, and contradicted by his own signature to the testimonials themselves. Are we then to set aside all these facts in order to settle their family quarrels? He thought we should act upon principle in this matter.

Mr. Williams thought we were witnessing an unusual occurrence here. Testimonials of the election of an Assistant Bishop had been presented, executed in due form, signed by every member, clerical and lay, of the Convention, testifying to the election, and to the character of the person elected, and declaring in the presence of Almighty God that they knew of no impediment to his being an Assistant Bishop. And now these gentlemen who have thus signed, come here and tell us there *are* impediments! Because gentlemen had not independence enough in the Bishop's presence to refuse to elect his nominee, are they to come here, when he is absent, and ask us to interfere and set aside their own action? How can we presume to know what motives influenced gentlemen in their votes? If the Bishop did attempt to dictate to them, he regretted they had not manliness enough to resist it. He was as much opposed to the dictation of Bishops as any one, but even though the Bishop of Illinois might have acted improperly, he could not believe he was therefore to be deprived of an assistant. Gentlemen must recollect that the Diocese of Illinois is interested in this matter. Did not these gentleman know of the impediments then, which they now say exist? Why then did they sign the testimonials? What new light has broken in upon them? What after-thought has brought all this before us? He thought it was asking too much to require us to go behind their own action, and on the strength of their verbal statements, set aside their solemn acts. As to the objection made to the lack of due form in the testimonials, he thought them quite sufficient. Disability on account of age, must mean *old* age, and must be permanent because men do not grow younger. He did not believe any member could seriously doubt that the Bishop of Illinois was disabled for the performance of his duties. If any does doubt, let him refuse to sign: but let the House proceed to act.

Rev. Mr. Kelley, in answer to the call for the Constitution, said that there was no copy to be had.

The report of the Committee on the Consecration of Bishops, upon this matter, was then called for and read.

Rev. Dr. Croswell, said the Committee did not lay stress on verbal defects in the testimonials They cited them to show the haste and carelessness with which the whole thing was done. And he repeated that there was not, in the testimonials, one word to show that the Bishop is canonically disabled for the performance of his duties.

Rev. Mr. Giddinge said not only that, but the Bishop himself had stated that, if the individual nominated were not elected, he should name no other, but would perform the duties of the office himself.

The President asked him to speak louder, and a member called upon him to 'say that again.'

Rev. Mr. Giddinge repeated the statement, and added that he wished to say a word as to his motives in signing the testimonials. He said that within ten hours after signing them he was convinced he had acted improperly—that he had acted from sympathy and friendship for the man, when he should have considered that his action would establish a precedent. He had addressed a note to the Chairman of the Committee on the Consecration of Bishops, requesting that his name might be taken off; but as he had been told that the whole matter would come before the House, he had thought it necessary to go before the Committee. If it were desired he would read the paper.

Rev. Mr. Kelley said he had no objection—he hoped it would be read.

Mr. Giddinge then read the letter, requesting that his name might be erased from the testimonials of the election of Rev. J. B. Britton, Assistant Bishop of Illinois.

A member asked what was the date of that letter:

Mr. Giddinge said it was dated "*New York, Oct.* 9th, 1847."

Mr. Williams—and the Convention sat in *June.*

Judge Chambers called to order.

Rev. Dr. Forbes wished to submit whether it were possible to proceed further in the case at present. The Constitution and Canons of Illinois had been called for. The testimonials from the Diocese were insufficient on the face of them, inasmuch as they did not affirm the disability of the Bishop. We must then go behind them. And if we go behind the documents on that point, we may on others, and that opens the whole question that has now been started. Until the Constitutions and Canons of Illinois could be received, he thought the matter should lie on the table; and to test the sense of the House, he moved to lay the motion on the table.

Rev. Dr. Hawks said he would be glad to make a few remarks if it were in order.

Mr. Collins, of N. C., said he had a resolution to offer.

Dr. Forbes withdrew his motion.

Dr. Hawks said he had but little to say.

Mr. Collins said he understood that the motion was withdrawn to allow him to offer his resolution, and appealed to the mover.

Dr. Forbes said no—it was withdrawn unconditionally.

Dr. Hawks said he asked his pardon, and begged him to go on.

Mr. Collins said the gentleman could speak to his resolution which would be equally pertinent.

Judge Chambers—That's the point,—that will satisfy him.

A Message from the House of Bishops here announced some verbal alterations they had made in the *first* of the Canons proposed by the joint Committee.

(The words proposed to be added to the canon, as reported, are enclosed in brackets. The words proposed to be stricken out are in *italics.*)

1. OF PROPOSED CANONS.

Of the Remission or Modification of Judicial Sentences by the House of Bishops.

The House of Bishops may at a triennial or special meeting, altogether remit and terminate any judicial sentence which may have been imposed, or may hereafter, be imposed by *the* Bishops *or any of them*, acting [collectively] as a judicial tribunal, or modify the same so far as to designate a precise period of time or other specific contingency, on the occurrence of which, such sentence shall utterly cease and be of no further force or effect. Provided that no such remission or modification shall be made except at a meeting of the House of Bishops during the session of some General Convention, or at a meeting of the House of Bishops, convened [by the presiding Bishop on the application of any five Bishops] after three months' notice of the time, place, and object of the meeting, [being] given personally to each Bishop, or left at his usual place of abode. And provided farther, that nothing in this canon shall be understood to repeal or alter the provisions of canon XXXIX of 1832.

Judge Chambers said the alterations did not touch the principle of the Canon.

Mr. Collins said his resolution would enable them to get out of the difficulty in which they were involved. It was not, he said, suggested by any opinion of the unfitness of the Assistant Bishop elect, or anything affecting his character. But he thought the Canon on the subject was intended to be strictly construed, and he had not heard anything to satisfy him in regard to the matter. He thought it very desirable that the facts of the case should be more clearly made out before they took decided action upon it, and his desire now was to give such a direction to the matter as should satisfy all scruples and put the Diocese again in possession of the whole subject. He therefore moved the adoption of the following resolution:—

"Resolved, That since the testimonials of the election of the Rev. J. B. Britton, Assistant Bishop of Illinois, are reported by the Committee on the Consecration of Bishops as not agreeing in form with the Canon, the said testimonials be referred back to the Convention of Illinois."

Rev. Dr. Hawks said it was quite possible that this might be the best disposition they could make of the subject. But he was not yet convinced that it was so, and in the few remarks he desired to make, he should study peace and his hope was that he might point out a distinction between this case and some others, that would enable the House the better to come to a decision upon it. He was perfectly aware that the point was a delicate one,—the principle involved in it was one he had cause to remember—and one which he should remember—as long as he lived. It was, how far the House had jurisdiction to go behind the regular testimonials submitted to its inspection. It was a delicate point indeed, one which had already been the source of extraordinary difficulties in an individual case, for the House had first asserted its jurisdiction; then declined it, and refused a verdict; and again asserted it and sent back the testimonials, having thus at the expense of an individual entertained three different views as to the question how far it might go behind the testimonials presented to it. The objection which is now made, and which is the basis of this resolution, is that these testimonials are themselves insufficient. And why? If he had [illegible] inasmuch as the canon on the subject, following the custom of the primitive church, prescribes that old age and bodily infirmity shall be the only reason which shall justify the election of an Assistant Bishop, and as these words do not appear to have been used in the testimonials now presented, therefore, the proceeding is deemed irregular. He begged leave to entertain a different opinion. The election of an Assistant Bishop is made in virtue of an express law, declaring old age and bodily infirmity as its necessary condition. In this case application is made by the Bishop for an Assistant on the ground of age and disability. It could hardly be supposed, if the subject matter of the Canon and the context afforded any good ground for construction, it could hardly be supposed that in asking for an Assistant, the Bishop of Illinois could have meant anything else.

Judge Chambers here inquired if the word *disability* was used in the certificate.

Rev. Dr. Croswell said the testimonials contained no evidence whatever of inability to perform the duties of the office.

Dr. Hawks said that he presumed it would not be disputed that the testimonials of this gentleman's election as Assistant Bishop, were before the House. He affirmed that according to the practice of the House, in the case of the election of an Assistant Bishop, when facts essential did not sufficiently appear in evidence, they might be supplied by the testimony of members of this House. The case occurred in 1829, in the election of the present Bishop of Virginia as Assistant Bishop. The objection was then taken in the committee, and there was before it no evidence of the fact of his election. What was done? Bishop Moore sent his certificate, and the Secretary of the Convention sent in his certificate, to the fact. They were received as sufficient and acquiesced in, and were looked upon as supplying any defect in the testimonials. He therefore looked upon that point as settled, and held that the additional testimony which had been now furnished, was sufficient to supply the deficiency even if any existed. But if the House would consider the fact, that with the canon before him, prescribing old age and permanent bodily infirmity as the only cause for the appointment of an Assistant Bishop, the Bishop of Illinois had asked for one, he thought they could not avoid the conclusion that the fact of his election afforded sufficient evidence that the cause prescribed did actually exist. That point, therefore, he should put out of the case. Now let us go further. The election takes place. He entertained great respect for the first gentleman who had spoken upon the subject. They were personal friends, and he did not doubt he had stated candidly and honestly the course of his own mind in the part he had taken in this matter. He had no doubt he had afterwards been sorry for what he had done. Grant it all. But they had nothing to do with the feelings which had dictated that disclaimer. The question had got to be settled as a question of law. The objection is, that the election was not made. And why? Because, it is said, the Bishop of the Diocese saw fit to express a wish that a certain individual might be elected, and even said that if he were not, no other should be during his lifetime. The House must give him leave to say that the Bishop had a *right by law* to say so, without subjecting himself to the charge of improper dictation. The Bishop ends in an application for an Assistant; he finds that the Convention is likely to select some one offensive to him, and withdraws the application, so that the Convention cannot select. That case had occurred. Bishop Chase had a right to say he would withdraw the application unless an election was made acceptable to him. Whether the mode of his doing this were proper or not, it was not for him to say. Whether it were expedient or not, he should not say. He presumed not to intermeddle with the affairs of the Bishop. He would only say that he had a perfect right to say so. But let us go farther. Suppose the remarks of the Bishop did amount to a dictation, what happened? Did gentlemen proceed immediately to protest against it? Not at all. There was first an adjournment for several hours, and then the Convention again came together. The alleged dictation seems to have excited no immediate attention. Did they vote, or not? They voted. Did they vote in obedience to the canon? They did. Did they submit to the dictation, or did they make a nomination for themselves? The gentleman has told us that he made the nomination of the gentleman elected, and that it was seconded. He asked were these men bound to do this? Were they obliged to do it? We are told that there were other gentlemen thought of for the office. Why where they not named? And yet now, because the clergy nominated an individual whom the Bishop approved, we are asked to believe *ex necessitate rei* that the Bishop's nomination was forced upon the clergy of Illinois,

Why, said Dr. Hawks, I should *despise* the clergy of Illinois, or of any other Diocese, if they could be thus forced into a measure which they did not approve. If the Bishop of Illinois had nominated a man and had urged his election by every argument which he could use and by all the outdoor influence he could bring to bear, and then he had been nominated and selected and confirmed, it would be a good, a valid election. The sole question is, did they or did they not cast their votes? If they had objections, their remedy was then and there, not here and now. They have no remedy here now, if you adhere to the legal testimony offered. The moral character of the gentleman elected is not questioned; it stands above suspicion. The sole question is, did the Convention, or did they not, cast their votes—not whether they were exposed to or influenced by any sinister motive. They did cast them; and now that they have been signed and sent to us, it is too much to ask us to disregard them all and send them back. We are forgetting what is due to the Diocese of Illinois. She has complied with the Constitution and Canons which she presented when she was admitted into union with us. She has made her election regularly at every point; and now, upon the simple declaration that the Bishop has said that he preferred a certain gentleman for Assistant, as by law he had a right to do, therefore we are urged to say to the Diocese of Illinois, independent as she is, acting as she does in conformity with her Constitution and her Canons, and in the exercise of the rights guaranteed to her by them—we are requested to say to her—Diocese of Illinois, take your business back and do it better! Don't dare to let your Bishop have an opinion as to his colleague! It seems as if the question were one of fact entirely—and as if it had been fully proved by the testimonials here submitted. And it will not do to come here and go into an inquiry as to the motives which induced the Convention to sign them. Let us put them on the table, for the signature of this House. Let those sign them who wish, and let those who do not, decline. This will settle the whole question at once. If a majority refuse to sign, then the Diocese of Illinois can go over her work again. If a majority do sign them, then we get over the trouble at once. But to send them back in the way proposed, involves, 1st, an invason of the rights of the Diocese of Illinois; 2nd, it would involve an implied censure of the Bishop which this House has no right to make; and 3d, if the Bishop did dictate to the Convention the choice of his colleague, the time for a remedy has gone by—if they ever wished to object:—their hands are tied, and their lips sealed, because they submitted to the dictation at the time it could properly have been resisted.

The President said that the hour appinted for the adjournment of the House had arrived.

Rev. Dr. Mead moved to adjourn.

Rev. Mr. Dresser rose to state a fact. He said some eminent legal gentlemen had been asked, if further testimonials of the inability of the Bishop of Illinois to perform the duties of his office were required: and they had replied that they could not be necessary, that the fact of his age and inability was too obvious to need further proof.

The motion for adjournment was then put and carried, and the House adjourned.

Eleventh Day's Session.

Monday, Oct. 18th, 1847.—The Convention met pursuant to adjournment.

Morning Prayer was said by the Rev. J. T. Brooke, D. D., Rector of Christ Church, Cincinnati, assisted by the Rev. Robert B. Croes, Missionary at Terre Haute, Ind., reading the Lessons, and also the Ante-Communion Service.

Mr. R. H. Gardiner, of Maine, submitted a resolution tendering the thanks of the House of Deputies, to the President and officers of the New York Institution for the instruction of the Deaf and Dumb, for their courtesy in enabling them to witness the progress made in converting to useful citizens a class formerly believed to be doomed to hopeless helplessness and ignorance, and in imparting to them the truths of Christianity and the hopes of a life beyond the grave.

The President, hoped before the question was taken, that it would be made a matter of somewhat serious consideration, as he thought it establishing a dangerous precedent for the convention to pronounce an opinion upon an institution not, in any way, under its own control.

Mr. Evans, of Md. moved to strike out all that followed the word courtesy.

Rev. Dr. Wheat, offered the following as a substitute:

Resolved, That the sincere thanks of the House of Deputies be tendered to the President and Directors of the Institution for the Deaf and Dumb, for their kind invitation, their pleasing entertainment, and their generous hospitality on Saturday last; and that a copy of this resolution be transmitted to Mr. Peet, the President of the institution. Adopted and passed.

Rev. Dr. R. Mason moved to take up the consecration of the Assistant Bishop of Illinois.

The President said that the unfinished business of Saturday would come up as of course in order.

Dr. Mason said before the question was taken he wished to make a few remarks on the case. He thought it presented *three* points for consideration: 1st, the character of the certificate which had been presented from the Diocese of Illinois:—2nd, the legality of the election of the Assistant Bishop: and 3d whether there exist any other impediments to the action of this House, than those contained in the certificate. With regard to the document itself he supposed it to be now generally admitted, that it was imperfect. But other testimonials had been submitted intended to render it complete, and he was not prepared to say that they were not sufficient for that purpose. The deficiency in the original certificate consisted in the omission of the words *old* and *permanent*, as qualifying the terms age and disability. But this he did not think material. A more serious difficulty arose from the fact that the certificate did not state that the Bishop was disqualified for the performance of his duties. This he considered as a serious defect. And yet it was possible that there might be other testimonials to supply this defect. He thought that might be done. There is a manifest difference between prescribing what is to be done, and laying down the exact form of doing it. If the canon had prescribed the form in which the certificate is to be made, then the defect alluded to would necessarily have prevented our action. As it does not, it seems fair to infer that we may resort to other sources of information for what that does not state. But if we are obliged to resort to other sources to supply what is lacking, we must in fairness, be allowed to refer to other sources also in reference to other matters, and this, it will be seen, opens the subject to a very great extent. The case is very different from that of the election of members to seats in this House, to which it was compared by the gentleman from Massachusetts. So far as that argument goes, it is certainly sufficient to show that the certificate is imperfect and that we have to resort to other sources for information upon the points which it embraces. He had called for the Constitution and Canons of the Diocese of Illinois, and he felt bound to say that he could not act conscientiously upon the subject until he had seen them. From all the information he had been able to gather on the subject, he thought it did appear that the election was illegally managed. This therefore, would be with him, until he could be clearly satisfied upon the subject, a great, perhaps an insuperable barrier to his signing the testimonials. But there were still more important considerations to be taken into view. There was reason for believing that an undue influence had been exerted on the election of an Assistant Bishop. This point had been, to a great degree, conceded by the gentlemen who had spoken upon both sides. Both concurred that the Bishop did, before the clergy and the laity, insist on the election of the person whom he nominated, and no other, to that office. One gentleman had said that this took place *before* the Convention met, the other that it was *in* the Convention. He did not think the point material, as to the fact of undue influence having been exerted. The Bishop had declared that if his nominee were not elected, he would never again bring up the subject as long as he lived. You want, we may consider him as saying, an Assistant Bishop;—you know it necessary to have one; but if you do not elect the person whom I choose, you shall have nobody. This he thought was a *threat.* It did exert an undue influence on the minds of members. That this was the fact, we have the confession of one gentleman, who tells us that he voted for him, although he now opposes his confirmation. Others may also have been influenced in a similar way.

Rev. Mr. Kelley here begged leave to state that the gentleman who opposed the confirmation could not have been unduly influenced at that time by the Bishop, since he voted *against* the election of the Assistant Bishop.

Rev. Mr. Giddinge said he was authorized to give the name of the *Rev. Alfred Louderback*, of Galena, the author of the letter read from the "Gospel Messenger," as one who was influenced by the Bishop's course.

Rev. Mr. Griswold stated that *Rev. Mr. Worthington* who voted for the Assistant Bishop, had also entered his protest against the manner in which it was done.

Rev. Dr. Mason went on to say that here were cases proving that the undue influence complained of was exerted and with effect. But that was not the worst of it He meant to cast no imputation upon Mr. Britton's action in the matter. He was only speaking of action that had been taken in the case. But he had been informed that another reason urged by the Bishop for his election was that he was a man of fortune, and that his support would therefore give the Diocese no trouble. He asked to be informed whether he was right, or wrong in making this statement.

Rev. Mr. Kelley said he was entirely wrong, so far as the fact of Mr. Britton's being a man of fortune was concerned. He wished from his heart he was. Nothing of the sort occurred.

Rev. Dr Mason asked if there was not an offer made of a thousand dollars, in case of his election.

Rev. Mr. Kelley said no. The Bishop did say that he would rather give up his salary as Missionary Bishop than not have an Assistant elected. He also said that the Rev. Mr. Kellogg had offered to resign the parish of St. James, in Chicago, in favor of the Assistant Bishop elect.

Rev. Dr. Mason asked whether this offer was made for Mr. Britton personally, or for *any* assistant that might be elected.

Mr. Kelley said that the Bishop told the Convention he would rather resign his salary than not have an assistant; and that he had received a letter from Mr. Kellogg stating that he would resign in favor of *any* assistant. Has the gentleman any further questions to ask?

The President said that the debate was becoming too colloquial to be in order.

Rev. Dr. Mason said he held in his hand a paper signed by the *Rev. Mr. Giddinge*, which stated that "the Bishop in his address to the Convention of 1846, distinctly gave the private means of Mr. Britton as a motive for electing him." He had been since informed that it was a mistake to say that this was said in the address to the Convention of 1846. But he wished to know if the main fact was so or not.

Mr. Kelley said that he was not a member of the Convention of 1846, and could not say:—it was not true of his address in 1847.

Rev. Mr. Dresser said he was a member of both Conventions; and no statement was *ever* made by the Bishop as to the private means of the Rev. Mr. Britton, for like most of us, he had no such means, and is *known* not to have any.

Rev. Mr. Giddinge said that he did not recollect that the Bishop used the private means of Mr. Britton as an argument for his election:—but he did state that the parish in Chicago, the strongest in the Diocese, had been offered. This was probably what had caused the mistake.

Rev. Dr. Neufville, of Georgia, wished to know whether the gentleman did not assume, as his own, the statement which he read from a printed newspaper here on Saturday.

Rev. Mr. Giddinge said he did with some exceptions, and this point was one which he would now except.

Mr. Colston, of Va., wished to know whether the parish at Chicago, was offered as a consideration for electing *an* assistant, or for electing *the* assistant named by the Bishop. There was a great difference in the two cases.

Rev. Dr. Mason said that was the very point he wished to get at.

Rev. Mr. Giddinge said it was stated that a parish could be had for the person who might be elected;—but at the same time the Bishop, after stating this, wound up by commanding us to elect the person whom he nominated, calling on the clergy on their oaths of canonical obedience, and on the laity, by the fact that they had partaken of the sacrament on the Lord's day previous.

Rev. Mr. Dresser said there seemed to be some

The President inquired if the gentleman from North Carolina consented to these remarks.

Rev. Dr. Mason said he did, provided they did not displace him.

Rev. Dr. Forbes said he hoped they would displace him, as they seemed to him all out of order.

Rev. Dr. Mason said he wanted all these facts and he would be very glad to hear anything that tended to make the matter more clear and distinct. As far as could be ascertained, he thought that the resignation of one presbyter had been offered in the first instance to any assistant Bishop who might be elected; but the course of events seemed to his mind to make it clear that as there could be only one assistant, it would be for his benefit; and it seemed to him a simoniacal offering for that particular individual and for no other. And while any doubts remained, he could not sign the testimonials,—and still more when there was strong ground for believing that such action occurred. The gentleman from Louisiana had stated that the Bishop had a right to designate the person to be presented—that if he did not consider him a good coadjutor he might withhold his assent, provided he should do it fairly, legally and honorably. He was not sure he would admit all that. Yet there was an infinite difference between a negative and a positive act:—between the Bishop not approving and withholding his assent, and saying that they shall elect such an individual and no one else. The difference is palpable and obvious. It is the same as if a parent should say to his child that he would not permit him to marry such a person, on the one hand,—and on the other that he *should* marry such a one and no other. In the one case it would be a proper exercise of paternal authority: on the other of intolerable tyranny. For these reasons he could not put his hand to the document, declaring that he knew of no impediment to the consecration of this gentleman. It was altogether different from admitting a deputy to a seat in this house. No such declaration is then required. But he always felt an awe and dread in signing his name to the testimonials required in the case of a Bishop elect—so solemn is the adjuration required. He had felt this in the case of the Rev. Dr. Burgess, not from any doubt as to his character but from certain opinions he understood him to hold, but which had since been satisfactorily explained. He could not in such a case as this, conscientiously affix his signature to the testimonials required.

Rev. Dr. Ogilby felt bound to say that, after a careful examination of the canon, a great part of the present discussion appeared to him irrelevant and unnecessary. In order to explain his views he wished to say in advance that he was not influenced by any prepossession in favor of the canon in question, for a worse one, in his judgment, did not stand upon the statute book of the Church, nor was he in favor of the multiplication of Assistant Bishops. He felt bound to take the ground that the House, according to that canon, has no right, so far as now appears, to withhold the testimonials in the case before them! And here he thought it not improper to say that the gentleman who had opposed their giving their assent to them, had discharged what doubtless appeared to him to be a solemn duty; and he did not wish to be understood as impugning his motives or as censuring his conduct. That everything he had said here had been well said; or that it was expedient to introduce every rumor for which he had made himself responsible, he was not prepared to assert. Yet no one could doubt the integrity of his character and the purity of his motives; and he presumed that if the Bishop should be consecrated, he would have no more cheerful supporter than he.—Yet he felt bound to say that the statements he had made were wholly uncalled for and unwarranted by the canon, which was the sixth of 1832, and which simply declares that "when a Bishop of a Diocese is unable "by reason of old age, or other permanent cause of in-"firmity, to discharge his Episcopal duties, an Assist-"ant Bishop may be elected by and for said Diocese, "&c." Now the power to elect and the conditions on which an election is to be made, are all stated in this canon,—and there is not a single specific restriction. There is nothing that requires signatures to any other testimonial than such as are signed in the case of every Bishop; and by a singular laxity of language, the mode of election is far more loose than in the election of a Bishop. It simply declares that "one Assistant Bishop may be elected by said Diocese"—not even by the Convention but by the Diocese in any way. He felt bound to say that if the Bishop had not only nominated and urged, but made the election, and had procured the canonical certificate, we should be bound to assent unless we knew of good reasons to the contrary. We are not permitted by this canon to go behind the testimonials—the whole power is left to the Diocese. But even if the language were more precise, he submitted that the House would be bound to assent to the consecration. He held that the Diocese had a natural and proper right to the services of a Bishop. When it has one who, in its judgment, is disabled it had a right to another; and it is for that Diocese to determine when that contingency has occurred. It is not competent for this House to institute an inquisition into the sufficiency of the judgment of the Diocese; and when such inquiry is authorized, we shall have established among us an inquisition of the worst kind. The House has a right to the proper testimonials, but in the nature of the case it cannot know all the individuals who come before it personally. It must take the general evidence furnished by the testimonials, and as the presumption is in their favor, it must assent to the consecration as provided by the canon. He did not think the act of signing was intended to be of that awful kind set forth by the gentleman from North Carolina. We are not the original actor in the matter. The primary responsibility is discharged by the Diocese. We are only to affirm the general qualifications of the individual presented, and signify our assent to his consecration. In regard to the certificate presented, (and that he thought was the only point properly under consideration,) the canon does not require one minutely accurate in all its details. The power to elect, belongs to the Diocese; and he maintained that the Diocese had also the power to decide upon the contingency which should make an election necessary. The House could not institute a medical inquisition—it could not resolve itself into a medical committee of the whole, to investigate the locomotive abilities of the Bishop. It must take the fact that the Diocese had acted as decisive; and unless the Diocese, or a large majority of it, offers evidence of some unworthy intrigue, the House is obliged to give the certificate required of it—which is simply that required in the case of other Bishops elect. We are to throw the responsibility upon the Diocese of Illinois. Upon these grounds, he maintained, much of the inquiry now in progress is irrelevant; and if it is to be persisted in, and if we are to investigate every rumor that is brought forward, we shall never get through the session, and important business will be neglected to the great injury of the church. These views were not prompted by a desire to see assistant bishops multiplied, for in this case he admitted the Diocese of Illinois, might have done that of which it would repent—or rather for which coming generations might be sorry; for he held it to be a hardship that one generation, a mere handful, too, should elect a bishop to preside over them and their successors for 20 or 30 years to come. But setting all these views aside, he must still maintain that the House was bound to give its assent to the testimonials that had been presented.

Mr. Wharton said he believed the question before the House, was on the resolution to refer the matter back to the Diocese of Illinois. To this he was opposed. The Diocese of Illinois has nothing further to do with it at present. The question before this House seems to involve two points, one of *law*, the other of *fact*. The question of law is the proper construction of the Canon. It had been assumed by all who had spoken upon this point, that some certificate of old age, or other cause of permanent disability, was required by some Canon. This, he thought, was a mistake. There is no Canon requiring any such thing. Whenever the fact exists, that the Bishop is unable to discharge the duties of his office, jurisdiction attaches to the Diocese, which has then the right to elect an Assistant. It is the existence of the fact that gives jurisdiction. The Canon says that if the fact exists, then the Diocese may elect. Now there is no mode pointed out in the Canons by which the Diocese is to be satisfied of the fact. If it knows of it, in any way, personally, by eye sight, then it may proceed. If the Diocese is satisfied that the fact exists, that is all that is required. It proceeds to make the election, and discharges its duty by giving the same testimonials as are required in the case of a Bishop. The matter comes before the General Convention. Now no matter what the Diocese may have done, if it has been mistaken in point of *fact*, it gives no jurisdiction to this House. Unless the fact is so, we cannot sign the testimonials. We are to be satisfied of the fact. Then the question is, is there any particular mode of taking evidence? There is none. The Canon leaves us to satisfy ourselves of the existence of the fact. The gentleman from New Jersey says we cannot go behind the testimonials from the Diocese. Suppose that both the Bishop and the Diocese prove to have been mistaken in supposing him permanently infirm, are we to be bound by the fact that both honestly believed it was so? We are to satisfy ourselves upon this point, in any way that may be most convenient. The gentleman from Louisiana seemed to intimate that an Assistant could only be chosen on the nomination of the Bishop. He thought that a mistake.

Rev. Dr. Hawks said he had been misunderstood.—His idea was that the Bishop could exercise his prerogative, if they were to nominate an individual disagreeable to him.

Mr. Wharton supposed something of this sort must have been intended, since, if the Bishop were afflicted with mental alienation, so that he could not make a request, the Diocese would still have a right to an Assistant Bishop. Next comes up the point of fact whether there has been a fair and free election by the Diocese. We all understand the difference between *influence* and *dictation*. All agree that if the Bishop, if able to attend at the time, would use more or less influence in regard to the choice of an Assistant. The manner of doing it would be a matter of taste. Some might do it, by walking up and down, smiting their forehead with the palm of their hands, &c., while others would do it in some quiet way. That is a matter of taste entirely, and depends upon each one's sense of delicacy and propriety. This is different from dictation. He could not see that there was sufficient evidence in this case to show that the Convention was tied up to the election of any particular individual. If he had been exposed to such influence as was alleged in this case, he should have voted just as he saw fit. The members of the Convention must have known that the Bishop's assent, or dissent, was a matter of perfect indifference. They had a right to select whom they choose, whether he approved their choice or not. He did not suppose, therefore, that the Convention had been morally bound to elect the only person nominated. Nor could he suppose that the fact of his nomination by the Bishop, rendered the election void. The Bishop had the same right to nominate a candidate, as any other of the clergy. As the result of his examination of the case, he was opposed to the resolution. He hoped the House would act upon the testimonials. Those who were satisfied with the election could sign them; those who were not, could refuse. If they were not signed by a constitutional majority, they would go back of course. But the House, he thought, should shoulder the responsibility that was fairly cast upon it.

Mr. Evans said that in his view, the House would shoulder the responsibility devolved upon it by sending back the testimonials, as proposed in the resolution before the House. Every gentleman who was prepared to sign could vote against the resolution. But if a majority were not ready to sign them, he thought it would be more respectful to the diocese, and to the gentleman before the House, to refer the papers back, than to refuse to sign them by a formal vote. It was like the vote of indefinite postponement, and like cases that occur every day in social life, in which propositions are passed by, on which we do not wish to take decisive action. That would be the effect of this resolution. It would be treating all parties with more respect. We are told that we must not go behind the record of the proceedings of the Diocese of Illinois. There is no question but the diocese has the right to act if they believe the disqualification to exist; but we have the same right, and it is equally necessary for us to be convinced of the fact. We are not to proceed upon the opinion of the Diocese of Illinois, but upon the fact. If we are bound to follow the testimonials, to what purpose are we called on to give our certificate. Let us carry out the principle. Similar testimonials are required for the ordination of a priest or a deacon. They come from the clergy or from the vestry. Suppose them to be presented to the Standing Committee: Has that Committee no right to go behind them? If not, why are they required to pass upon them? We must judge for ourselves in this matter. We must go behind the testimonials. We may not do it incautiously, rashly, harshly, cruelly, and unjustly. Still we are called on to act: and we must inquire into the testimony which is to form the basis of that action. In this case, we are to protect the rights of all—of the Diocese, the presbyters, and the laity. He would not be supposed to be specially jealous of the rights of the Episcopate, though he would protect equally the rights of all. But he believed it was the right of the Convention to choose their own Bishops, free from all undue influence. The Bishop, it was said, has a right to make a nomination. But there is no evidence that he did that. The gentleman from Illinois tells us that *he* made the nomination. The Bishop, according to the evidence, only made an illegitimate nomination. The Convention met with closed doors, as one member says; or the members so met, according to another. In either case the Bishop used an undue influence on the minds of the members; he used a *threat*, such as no Bishop has a right to utter. This is not legitimate influence—it is not in the exercise of any right which he possesses. It is illegitimate power exercised in caucus. His offer of his salary was improper. Suppose all our Bishops were missionary Bishops in a similar case. Is it not our duty to protect these weak Dioceses? We have a right to go back of the testimonials and to find there, if it exist, evidence of an undue influence upon the Convention. But we are told further that we are not to inquire into the fact whether the Bishop is unable to perform the duties of his office or not. Yet here we see him walking about, making a journey of 1700 miles, presiding in the House of Bishops, and passing around with nearly as firm a step as any member, and yet we are called upon to believe he is permanently disabled to perform the duties of his office. If we are to take the evidence of our senses, the Bishop of Illinois is not entitled to an Assistant. The Diocese shrunk from asserting that he was, and their certificate comes to us bolstered up by the declaration of three individuals.—The evidence of our senses is the other way. The Bishop is besides at the head of a college and is constantly performing labors which belong to a man of middle age. The fact, therefore, of disability he did not consider proved; while the fact that undue influence had been exerted, he thought was proved. The gentleman from N. J. says it is allotted to the Diocese to determine whether they will have an Assistant or not. Then the Canon ought to have been differently expressed, because it now requires a *fact* as a condition of action on the part of the Diocese,—a fact not now proved to exist. He thought, therefore, we ought to reject the application; and the mildest mode of doing it, would be by the adoption of the resolution offered by the gentleman from N. C. It will then go back to the Diocese. If they still want an Assistant, they can say so. If they desire it, they can still elect this gentleman. We can only delay them a year; Bishop Chase threatened to deprive them of an Assistant for his lifetime. The gentleman from Louisiana says this will look like a censure of the Bishop, and the House has no right to censure a Bishop. He conceded this. We have no right to censure anybody; but when we are called on to investigate certain actions, and when censure for those actions falls on individuals, the House cannot help it. When called on to pronounce upon the conduct of any man, be he prelate, presbyter, or deacon, he would do it fearlessly—though he lacked nothing in respect for all three. He could not sign the papers for the reasons he had stated:—and he thought the adoption of the resolution would be the most courteous method of sending the matter back to the Diocese of Illinois.

Rev. Dr. Ogilby wished to explain one or two points on which he had been misunderstood, both by the gentleman from Maryland, and by the gentleman from Pennsylvania. He did not take so broad ground as had been ascribed to him, in reference to the responsibility of this House. He did not say, on the one hand, that our consciences were tied up by the action of the Diocese, nor, on the other, that we had no right to go behind the testimonials. He only thought that we were not bound to be overscrupulous,—to take more on our consciences than belongs to us. We are bound to act conscientiously, but we are not called upon to go beyond the proper limits of our action. We are not called to testify to the inability of the Bishop to perform his duties: that is set forth simply as the ground of action for the Diocese. The Diocese attests that fact and then it comes to us.

Rev. Mr. Moore, of N. H., thought that if this matter was sent back to the Diocese of Illinois, it should be done fairly and honestly—not upon any false grounds. Yet he feared that if this resolution were passed, it would give a wrong impression as to the grounds of the action of the House. A new issue seemed to have been joined since the report came from the Committee on the consecration of Bishops,—that report stated that the terms of the Canon were not complied with: and this resolution proposes to send the matter back on that ground. But, in point of fact, different grounds are assumed. The truth is, we are taking the issue on the question whether any undue influence has been exercised:—this will be the real ground of our sending the matter back, while the ostensible ground is that the testimonials are insufficient. In regard to the construction of the Canon, his opinion was that it should be liberal. The House has already acceded to a lax construction of the Constitution, and certainly it ought to be less, rather than more, rigid in the construction of a Canon. At all events we should be consistent. With reference to the undue influence said to have been exercised by the Bishop, he was glad to see so much jealousy in regard to episcopal interference. But we were treading on delicate ground here, and should be careful not to reflect upon the action of the other House.—That body, on the eighteenth day of the last session, was pleased to endeavor to influence our action, and this House consented, without deeming itself thereby liable to reproach. The whole question now is, was there any undue influence exercised? Even if there had been, and it had amounted to absolute dictation, he thought it was a matter which the Diocese of Illinois should settle for itself. If the Convention was dictated to, it is a reproach to them, not to us: and they ought to be punished for yielding to it, if they consider it a punishment, by having an Assistant Bishop whom they now resist. The chief question after all, was how this influence was exerted: in a bungling manner, or in some quiet and unobtrusive way:—for it was not to be doubted that every one, Bishop, or rector, would seek in some way to influence the choice of an Assistont if he were to have one. In regard to the alleged fact that there was not sufficient evidence of the Bishop's inability to discharge the duties of his office, he would ask if the Convention had not sanctioned much less degrees of importance than exist in this case. Since the Canon of 1832 was passed, an Assistant Bishop in Virginia has been chosen, yet no one will say that the Bishop of that Diocese is as infirm or as unable to perform Episcopal duties as the Bishop of Illinois. The House should at least be controlled by its own precedents. It ought to act, not only honestly, but consistently,—not in a shuffling manner, giving to our authorities one interpretation to-day, and another to-morrow.—And above all if we send the matter back to the Diocese of Illinois, let us tell them plainly that it is becouse undue influence was exerted in the election of the Assistant Bishop.

Mr. Conyngham then addressed the House. He contended that they had a right to go aside of the record in order to inquire into collateral matters, of which the documents before them did not furnish any evidence. The inability of the Bishop of Illinois to discharge the duties of his Episcopate, and the fitness of the Assistant-elect were open matters. On these matters they could obtain and receive parole evidence of the one election having been held was not admissible. They could not go behind the written testimony. Why then with such views send the matter to Illinois? Could they permit the written evidence to be cast aside? Certainly not. The learned gentleman insisted on these views in a number of forcible remarks.

Rev. Dr. Vinton said the position assumed by him on Saturday, had been confirmed by all that he had heard during this discussion; he adverted to the views set forth by gentlemen on the other side, particularly the gentlemen from Maryland and North Carolina.

The gentleman from Maryland adverted to the case of the Standing Committee, and asked if they were satisfied with the testimonials? No. They went aside of the record. So may we. We are to testify that there is no impediment in the way of the consecration of the gentleman. He read from the Canon on the subject. It was their sole business to testify on that score. They could call evidence on that point. But that was going behind the record. Very different, however, was that from going into the election itself. Let them see how it stood in regard to the inability of the Bishop. That was an unprecedented demand to go into the physical infirmity of the Bishop. They had no right to ask any farther proof than Illinois herself furnished on that subject. But was there an undue influence exercised? It seemed to be admitted that a legitimate influence might be exercised. What evidence was there of undue influence? Did the Diocese complain? Not at all. Sixteen clergymen, and thirteen laymen, signed the testimonial. Three of them now said undue influence was exerted.

Mr. Giddinge, begged leave to state that nearly one-third of the Convention was opposed to going into the election.

Judge Chambers—Will the gentleman from Mass. allow the gentleman to state the fact?

Dr. Vinton proceeded.

They had no right to presume on such a state of unmanliness as to suppose that the Convention acted under such influence, unless they proclaimed with open mouth they did so, and would do so no more. But there was a definite proof of that needed. He was about to say that another gentleman had been nominated before Mr. Britton. He was himself cognizant of the fact that the reverend gentleman in Chicago (Mr. Kellogg,) was himself proposed. That gentleman said he did not desire the office. The communication was made to him by the Bishop, which he declined. The Bishop made a remark to the effect that there was no other parish able to sustain the Bishop.

Rev. Mr. Dresser, of Ill., here made a remark not distinctly audible.

Dr. Vinton replied that the proof was, at all events, that, however imperious the Bishop might be, he had an ample range and was by no means exclusive in his predilections.

At all events, that the gentleman elected was not the only nominee of the Bishop, and thus the case was shorn of one-third of its strength. The Bishop looked for a man fit for the office, and had no private reference in the matter. He called his candidates according to circumstances, and he (Dr. V.) did not regard that as an unwholesome or dangerous thing. If they had no right to go behind the record, it went for Illinois, and if they had that right, there was nothing to apprehend against the Bishop. Let them leave the responsibility of judging of the Bishop's inability and their own election, to the diocese of Illinois.

Judge Chambers then addressed the House. He thought that one or two facts in the case were not understood. He had himself misled gentlemen in private conference by stating that another nomination had been made in Convention. That misapprehension arose from the fact of a conversation about the nomination of another. But there was no such nomination. Another misconception related to the salary of the Assistant Bishop. It was denied that the Bishop had stated that the Assistant was to receive the salary of a Missionary Bishop. It was supposed that the thousand dollars was not at the disposition of of the Diocese of Illinois, or any one there, but all.—After the election, it was the purpose of the party elected to decline, and that as a further motive of acceptance, the senior Bishop stated that he would relinquish the salary of Assistant Bishop in his favor. Was that not the case?

Rev. Mr. Kelley. It was not stated in Convention.

Judge Chambers—Was not that paper put forth by the Bishop? He was then right. A paper, the name of which he forgot, set forth that statement.

A Member—It is denied by the delegation.

Judge Chambers—Who denies it? He would state the fact again. Was he right?

Mr. Kelley—It might, or might not, have been so.

Judge Chambers—Can any other member of the delegation answer?

Rev. Mr. Dresser—Admitted that it was so stated in a publication issued by the Postmaster of Robin's Nest.

Judge Chambers—Who is the Postmaster?

Mr. Dresser—Bishop Chase.

Rev. Dr. Brooke asked if it was in order for the gentleman from Md. to go into the question of the exercise of undue influences in the election—and was about to argue his point of order, when

Judge Chambers rose and called the gentleman to order.

The President remarked that great latitude of debate had been permitted on both sides. The gentleman from Maryland would proceed.

Dr. Brooke appealed from the decision of the Chair, but after some conversation on the point of order, the appeal was withdrawn, the reverend gentleman still insisting, however, that he was correct in his view of the question of order.

Judge Chambers proceeded. If any gentleman supposed that he was actuated by any other desire than to ascertain all the facts, it was a mistake. It was due to the party who introduced the subject that the remarks about the salary should be fully explained. The question was—what was the law of the case? It had been properly stated by the learned gentleman from Pennsylvania. His premises were right, but he (Judge C.) differed from his conclusions. He argued that the forms were for the purpose of enlightening their judgment. The purpose of the Convention—its duty was to aid in the consecration of one proper to be a Bishop of the Church. The idea that they should by any course of legislation confine their action so as to prevent them from obtaining any information would be unjust and contrary to every right principle. An Assistant Bishop was not to be consecrated until the Bishop was incapacitated canonically. That could not be ascertained unless some mode were pointed out which the Convention was to respect. The opinions of the Diocesan Convention, are accordingly regarded as proof: as was well said, there was no Medical Committee or any other mode of ascertaining that fact, so as to be conclusive on the minds of the Convention. There was no particular standard of disability—not at all. A bishop might be very unfit to travel a great distance, and superintend a large diocese, and yet be competent to take charge of a smaller diocese. There was, therefore, no precise amount of disability set down in the canon. It was a question, then, in which they were called on to say on the testimony before them, that an assistant was needed, and that the person chosen, was a fit subject for consecration. He, therefore, said that whether it was called going behind or aside of the canon, it was no matter. The gentleman from Pennsylvania, said that there was a record in the case not to be impeached. As was suggested just now by a reverend friend, the record was designed to introduce the matter to their notice. As a mere technical question, when they talked of going behind the record, they should know what it meant. In the case of the question of the New York Delegates, to which reference had been made, they did not set aside the record. In the present case, the record stated that the gentleman was elected. On its face, the evidence which the canon required, was not given. It was true there was an election. But that was not enough. An election was expressly forbidden, unless the Bishop was disabled The record must then state the facts required by the canon. But in that case, it did not state these facts. In the first place, then, he said that taking the record as it was, it was impossible on its evidence, to say that the assistant Bishop was entitled to his seat. Gentlemen had seen that. They had been compelled to call into requisition their personal observations. Let it be remembered that he did not view this case as if those who doubted the propriety of consecration, were desirous of going behind the record in order to defeat a title made good by the record. It was not so. They did not appeal to those other facts in order to discredit the claims of the assistant Bishop. A majority of the Illinois Delegation virtually said—"you ought to sign this certificate, not because you are furnished with the legal evidence, but because we bring before you facts which justify it." He disclaimed all unkind feeling against the assistant Bishop, from whose excellent character he would not detract an iota. He acted on principles of the supremest importance—not only to the Diocese of Illinois, but the whole church. The Bishop had called upon the Convention to accede——

Rev. Mr. Kelley was very sorry to be placed in such a position as that assigned him by the gentleman from Maryland. With regard to the statement that the Bishop had commanded them by their canonical obedience—

Judge Chambers. Not "commanded."

Mr. Kelley. That was the word by used one of the gentlemen.

Judge Chambers begged that the gentleman would confine his explanation to expressions used by him (Judge C.) alone.

Rev. Mr. Kelley continued. His ears must have been mesmerized probably, but he certainly did not hear any command from the Bishop on that occasion.

Rev. Mr. Grisworld did not wish to call in question the powers of recollection of any gentleman; but he had the authority of the delegate from Springfield, Ill., and a letter from another gentleman, who was present at the election, to confirm his assertion that the Bishop had "commanded" them.

Rev. Mr. Dresser of Ill., had not any recollection of the Bishop having used the language attributed to him; but the impression made on his mind was that the Bishop's remark was that unless Mr. Britton were elected, he did not wish them to elect any one. There was, he dared to say, some reference made to canonical obedience, but he did not recollect the precise import of what was said on that subject.

Rev. Mr. Griswold remarked that the nomination was made during the sitting of the Convention, and the Bishop made his statement then and not, as has been represented in some quarters, at an informal meeting of the Clergy.

Judge Chambers inquired if the gentleman, who had just spoken, had been present on the occasion?

Rev. Mr. Griswold replied that he had been present.

Judge Chambers asked if the gentleman recollected anything about "canonical obedience"?

Rev. Mr. Griswold replied that it struck him that such language was used, but he did not now recollect in what connection.

Rev. Mr. Giddinge asked whether the Bishop had not said something about "magnifying his office"?

Rev. Mr. Kelley—Yes; and he (Mr. K.) had no hesitation in saying that the Bishop said—"If you do not elect Mr. Britton, you shall not hold an election at all!" He believed that it was on record that other Bishops had adopted a similar course. Gentlemen might laugh if they pleased, but they laughed at the venerable Bishop of Illinois in company with all those excellent men who had assistant Bishops.

Judge Coltson—Was that remark made in the morning or after the recess?

Rev. Mr. Kelley—In the morning.

Judge Chambers resumed. After what the House had heard he would decline going into these unpleasant details. The allegation was that in consequence of the conduct of the Bishop of Illinois the Convention had elected by restraint imposed on their judgment one who was known to only one member who would not vote for him, and who voted finally against him; and it now appeared that in consequence of the action of the Bishop, (no doubt regarded by him as perfectly legitimate) that the inference was that he also wished to get rid of a parish minister in order to effect his object.

Rev. Dr. Vinton rose to explain. The offer was voluntary on the part of the incumbent of St. James', Chicago. He fulfiled his offer, but the parish would not accept his resignation.

Judge Chambers understood the gentleman to say at first that the Bishop had suggested that resignation.

Rev. Dr. Vinton thought he had been misunderstood. It being suggested to the rector himself that he might fill the office of assistant Bishop, and on his declining, it was again suggested that the assistant would require a good parish, the rector offered to decline in favor of the person elected.

Judge Chambers would accept that modified statement. It still showed a double movement for the election of an assistant and the removal of a parish minister. He (Judge C.) would once for all ask whether there was one man in the Convention who would say in the presence of the Church and its Head, that the person elected was the choice of the people? He could not conceal that remarkable fact, that to that House, with that application before them, with the discussion and conflict of opinion, it had not been said by any one that Mr. Britton was not the choice of Illinois.

Rev. Mr. Gallagher rose to offer an amendment suspending all action in this matter till the Diocese of Illinois have an opportunity to declare its wishes on the subject.

Judge Chambers was quite willing to have peace, and would second that amendment—not to lose the floor, however.

Rev. Dr. Hawks said he had a substitute to offer to the effect that the Secretary be directed to prepare the requisite testimonial in the case, and that it be laid on the table for the signatures of the members.

Rev. Mr. Gallagher made a few remarks in support of his amendment, showing the necessity of delay in finally adjudicating in this case. If pressed, a great many members could not conscientiously sign the certificate at present.

Mr. Collins accepted the substitute.

Rev. Dr. Hawks insisted that his substitute was in order. Some conversation arose on the point of order.

The President stated the position of the questions before the House.

Judge Chambers was ready to yield the floor in case the House was prepared to vote on the substitute without debate.

Mr. McFarland did not suppose that the House was prepared to suspend debate.

Judge Chambers resumed. He was prepared to take a different course from that proposed by the gentleman from Louisiana. Delay was, he thought, advisable. That proposition could be maintained by the same evidence with which they had been referred to the inability of the Bishop of Illinois. It was doubted whether the canonical number of clergy were present at the Diocesan Convention.

Mr. Kelley said there were twenty-one clergymen present.

Judge Chambers—Then the fact was not as had been represented to him. He was prepared to say that in the absence of proof of inability on the part of the Bishop, he could vote conscientiously against the consecration of an assistant Bishop. He alluded to the active exertions of the Bishop of Illinois and his capability of travelling long journeys and undergoing great physical exertion. He should be pleased then to see the proposition deliberately brought forward that it was not now expedient to choose an assistant Bishop in the diocese of Illinois. He was proceeding to show before the interruption that the deliberate judgment of the diocese of Illinois had not yet been expressed in this matter. The free and unrestrained action of that body, would not, he believed, result now in the election of Mr. Britton. He declined entering minutely into the discussion of the grounds on which he entertained these opinions. He so refrained in consequence of the unpleasant feelings which had been created. But such was the deliberate conclusion to which he had arrived. It had been said that the influence of the Bishop might be properly exercised in the election of an assistant. Information might be sought of the Bishop, but not direction. He affirmed that this was a clear case of dictation. It was a clear case of obliging a man to assume the opinion of another after abandoning his own. He knew it was said that if those gentlemen tolerated that interference let them abide it. Well if the case affected only themselves and the Bishop, that might perhaps be said with some propriety, but the case affected the whole church. But let them look farther. Most of the members of that Convention were in a peculiar condition. Most of them were missionary clergymen. Was it not possible for the Bishop without any violation of the canon to make a parish uncomfortable for the incumbent? Were they not in fact dependent on the Bishop for continuance in his Diocese? It was in the power of the Bishop to make any gentleman in his Diocese very uncomfortable if he did not comply with the Bishop's wishes. The Bishop had not in this case gone to give advice, as the gentleman from Pennsylvania ingeniously put it. He went there not to give any advice as to the fitness of the nominee. He went there to say, "I wish this thing done, and I wish you to do it!"

He had but a word to add. It was said that in this case they did nothing but sign the credentials. But if they did so they would be the authors of his consecration. He read the canon relating to the case. They were then to approve his testimonials and so declare he had all the qualifications for consecration. The gentleman from New Jersey must to the broad ground.

Mr. McFarland next addressed the House. He felt some reluctance in following the previous speaker whom he complimented. But he desired to say something because it appeared to be assumed that there was a desire to reject the gentleman as assistant Bishop. He begged gentlemen to recollect that generally in such case "the wish was father to the thought." There were only two objections to the confirmation of the testimonials—one, a deficiency of technicalities in the documents, and the other that the manner of the election was improper. It appeared from the course of the last speaker that the former objection was abandoned. It ought to be abandoned. He begged gentlemen, then, to remember that the only question was whether the venerable Bishop of Illinois was in the category contemplated by the canon.

Judge Chambers—In my opinion.

Mr. McFarland—He does not give evidence, but states his opinion.

Judge Chambers rose to explain.

Mr. McFarland could not yield the floor except for mere explanation. He could not allow an addenda to an argument which had occupied some hours. Here then was the question of the inability of the Bishop to be decided by individual opinion, despite of the deliberate judgment of the Diocese? If so, there could never be expected to be harmony or dignity, he was about to say, with regard to a case of that sort.

Then they came to the manner of election. A very grave imputation was cast on both the Diocesan and the Diocese. Were gentleman ready to entertain such imputations without any testimony, but on mere declarations which grew in fervor as the discussion proceeded? On what did they proceed? On the impeachment of an individual who concurred in the action of the Convention, and made no complaint till a few days ago! Had they any testimony—had they anything but that declaration? It was alleged that there had been dictation. What was the proof? Why, that the Diocesan used strong if not intemperate expressions with regard to his individual preference. That was all. Was there the least proof that that individual attempted any direct interference or dictation? Was there any evidence of submission on the part of the Convention to that dictation?

Judge Chambers. The election itself!

Mr. McFarland—Did the gentleman undertake to say that gentlemen entertained good objections to the nomination, and abandoned them under the dictation of the Bishop? They must go farther, and show that the Diocesan not only had a choice but controlled the action of the Convention. He did not believe that the Diocesan or the Convention were capable of such conduct. All the Diocesan meant was to indicate his choice, because he knew the Convention confided in him. Were they to be told that because a dignitary of the Church indicated his choice and the Church confided in him, dictation was employed. In the same way the gentleman from Maryland might be accused of dictation, because being well experienced in the legislation of the House, he often guided its decisions. The Bishop was the presiding officer of a Diocese. In that character he had a right to participate in its deliberations in the case of an election of an assistant, as well as in any other case. Had he not a right to employ all the arguments in his power in order to enforce his views?

He apprehended that if they had the members of the Convention present, it would be found that they had not acted so tamely as to submit to the dictation of the Bishop. It was only after the members had examined into the fitness of the nominee that they proceeded to the election. But he wished to direct the attention of the Convention to the position in which they would be placed hereafter with regard to elections of Bishops. There would always be some disappointed friends of unsuccessful candidates. Were they then prepared to open the door to complaints from such quarters? It would always happen that the Diocesan would take a deep interest in such elections, and some would complain of being set aside. If the door were opened now, it was impossible to prevent the greatest disturbance and disorder. There was little danger of the exercise of despotic authority on the part of any Diocesan. He was confident that it was the pleasure of the House to dispose of the question now. If sent back, it went on the allegation that the Bishop had improperly interfered, and if another candidate were presented, the inference would be that the allegation was correct. In the meantime, was it not evident strife and dissention would be carried into the Diocese of Illinois? In every view of the case, then, he hoped the case would be at once decided.

Judge Chambers here moved a recess till five o'clock.

A Member—Not in order—a motion to adjourn at 3 o'clock, which has been adopted.

Mr. Campbell of Ga., explained the course taken in Committee in this case. It seemed to be admitted on both sides that the right is not exclusive in any Diocese to complete the election of an assistant Bishop. The House was competent to judge of the infirmity required by the Canon, and had the evidence of their own eyes as to that matter. In Committee it was properly suggested that the Bishop of Connecticut being afflicted with partial blindness, proposed the selection of an assistant Bishop. The Diocese requested a suspension of his judgment, and his eyesight being afterwards providentially restored, the wisdom of that course was apparent. He did not know the physical ability or disability of the Bishop of Ill., but he knew of one gentleman aged seventy two years, who in speaking of the matter, very resolutely maintained his own ability to do any duty whatever. He contended that in defence and respect to the Bishop elect, the motion of the gentleman from North Carolina ought to prevail.

Here there were general cries of "question."

Rev. Mr. Kelley hoped that before the question was taken, one at least of the deputies from Illinois should be allowed to say a few words. There had been doubts cast on the declaration of the Diocesan Convention. For his own part he denied most emphatically that he had submitted to any dictation on the part of the venerable Bishop of Ill., or any other Bishop. It was true he knew nothing of Mr. Britton before his nomination. But he knew the Diocese needed an assistant Bishop. He knew that the Bishop was not physically able to travel throughout the Diocese. Were they to be told that with the privileges and rights of Presbyters, they were willing to submit to any gentleman who was not their own free choice? Was their independence to be sacrificed by throwing back this matter to Illinois? It had been said that there was not a member of the Diocesan Convention, who now wished that gentleman as their Diocesan. For himself he could say the more he had seen of Mr. Britton, the more persuaded he was of his fitness and the more he desired him as his Diocesan. He had a high regard for the character of the gentleman who had objected to the election. But surely there was abundant evidence that the election was agreeable to the majority, when thirteen out of sixteen voted for the nominee. Did the gentleman who now objected, endeavor at the time to arrest this action under the alleged dictation of the Bishop? Not at all. Was it to be said to them as they returned to Illinois that they had signed their names to that document whilst they did not desire in their hearts that gentleman to be their Diocesan? The gentleman from Maryland had asked whether any of the members of the Illinois Convention were willing now to say that they would take the gentleman as their Diocesan? He (Mr. K.) had no hesitation in replying in the affirmative. Allusion had been made to the physical endurance of the venerable Bishop. Granted that he was able to travel a thousand miles and sat in his chair presiding in the other House, was that evidence that he could travel throughout his Diocese in an open wagon across prairies and on roads three feet deep, and without adequate accommodations at night? Was an old man of seventy-one years of age, after a life of missionary labor, able to undergo all that fatigue and endure the heat of a blazing sun that drove the thermometer up to 90° in the shade? He was not blind to the infirmities or faults of his Bishop, but he knew that he had spent long years in the service of his Master, and he wished to see his declining days surrounded by some little comfort and respite from toil.

They had heard a great deal about going behind and aside the record. He hoped it would not be a one-sided affair. He had trespassed on their attention only in order to correct erroneous imputations and state his own views and feelings.

The hour of 3 o'clock having now arrived, there were cries for "adjournment"; but on the question being put, the House refused to adjourn—and the debate was continued.

Rev. Dr. Hawks rose and said he was aware of the anxious feeling of the House to reach a conclusion of this important and exciting subject, and he had only two motives which induced him to tax the patience of the House for a few moments. The one was to warn them against a dereliction of duty, and the other was to return thanks for aid from an unexpected quarter. He said the House had lost sight of an obvious duty. The argument of the gentleman from Pennsylvania (Mr. Wharton) had been so clear and lucid, that he had listened with the deepest interest to hear a reply, but in vain; it had not been answered. He said he would first inquire, what Illinois has yet to do? Secondly, what had the House to do? There was no mode established by law for the ascertaining the facts in the case. They were left free to establish them in any way that should be satisfactory to themselves. This the Diocese of Illinois had done, and she had now nothing more to do Now, said he, let *us* meet our responsibility; I am tired of sending testimonials back to their dioceses. We had better meet them here. It is, I know, much easier to throw them back than to meet them. But except there is a clear and palpable case of irregularity, I oppose all sending back of testimonials. The Diocese of Illinois and her Bishop should be treated with respect. But I have to return my thanks to my learned and respected friend from Maryland, (Mr. H. D. Evans.) He says that censure ought not to be cast on a bishop, except when it is unavoidable in the discharge of our own duty. I am not the man to object to censure whenever it is due. If in the discharge of our duty we are compelled to inquire into the conduct of others, we are not only free, but are *bound* to express our judgment. But by these remarks I do not wish to imply that I think that is the case here. If by duress the election has been effected, if by fraud the convention have been compelled to elect a man who was not their free choice, I care not whether he be Bishop of Illinois or Archbishop of Christendom, I maintain he had no right to do so, and I would lift up my hands to heaven in solemn protest against the usurpation. But there is one point on which I must thank my friend;—for his desire to protect the order of Presbyters. Brother Presbyters! thank him! True, we have much hard work to do, and we usually have to look for our champions among ourselves. We are thankful, for this protection, coming from such a quarter. Our thanks are sincere, heartfelt and fervent. But his protection of the Presbyterate comes to us in such a questionable shape, it reduces us to a condition so humiliating that I am almost ashamed to accept it. According to his account, here are thirteen poor helpless, infantine presbyters, their independence all gone, and sacrificed to the spirit of obsequiousness, they bow down in the dust and lick the feet of their bishop.—These poor helpless thirteen innocents have committed an awful mistake, he tells us, while three noble, independent, enlightened presbyters, who have made no mistake, must come here to protect the thirteen dear innocents. Now, Mr. President, we don't want any such protection as this. These men were not fools or dishonest, nor were they ignorant of what they were about. They knew full well what the law required; they have come up to its provisions, and have signed and sent in the requisite testimonials. But suppose we should protect these presbyters as we are requested. What then? Why, sir, we should establish a precedent, and a very bad precedent. It is a rare thing that the election of a bishop is unanimous. Suppose the case of the election of a diocesan, where some of the neighboring bishops give their counsel and advice to the presbyters electing, that the testimonials are signed, and there appears a clear majority for the person elected. But suppose there are some four, five, or six who are dissatisfied: they will then have a precedent authorizing them to come up here and complain of dictation on the part of this bishop and that, who were seen to talk with the presbyters about the successful candidate. As to assistant bishops, no one can expect a bishop to allow of the election of a man of whom he knows nothing. The law gives him a remedy by which he may avoid having a disagreeable man forced upon him. The Diocesan had said, in a frank, clear, open manner, that he had a preference for this man; that he knew of no other whom he would like; and that rather than take any other he would prefer to do without. Is this dictation? Where was the force applied to these innocent gentlemen? It is impossible to allow any authority to solemn records, and yet say that this was not a fair and formal election. If they made a selection in a wrong manner, or from unworthy motives, that is their responsibility. There is nothing to hinder our signing his testimonials, provided he be a good and worthy man for the office. If this precedent is established, then just as often as there is an election of an assistant Bishop, just so often will be found a disaffected minority, who will come up here, and raise a point of dictation, or something equally important, in order to have the testimonials sent back to the diocese. Sir, this house will then become an arena, not to decide upon the competency of the man who brings his testimonials, but to pronounce *who* shall or shall not be Bishop of the diocese—an influence far more terrific and odious than the influence of any Bishop in his own diocese. Sir, I do not believe in the doctrine that the sun of heaven shines on any diocese whose Bishop can force his presbyters to vote against their judgment, and against their consciences. When that time comes, you may write Ichabod on the standard of our Holy Church, for her glory will have departed. Sir, I reverence the Episcopate, I am ready to uphold every just prerogative of the office, but when the Bishops lay the rights of the presbyters in the dust, then will be the last days of the Church in this land! The bishops are bishops by divine right. Sir, I grant it. But the presbyters are also presbyters by divine right, so long as each maintain their own place, so long as they move in harmony and beauty and order. But when either order attempts to rush out of its own place to invade the rights of the other, they produce those frightful convulsions at which men stare, but know not how to remedy them. Mr. President, I am not in favor of sending back these testimonials. It is not more respectful to send them back. There can be only two reasons for such a course. It either means that they are lacking in technical accuracy, or that we request them to reconsider their action. They are not so lacking in technicality as to render them invalid. And shall we ask them to reconsider? Why, sir, could we cast upon them a deeper insult? Would it hot be equivalent to saying to them: "Did you not, in this election, show a total want of honesty and independence, did you not cringe to a usurpation of your rights, did you not act like a set of clerical blackguards?" Sir, this is not the sort of respect due to the diocese of Illinois, or to any diocese. No, sir! Let us place the papers on the table of the House, and let all those sign the testimonials who can do so in conscience. Those who cannot may let it alone. I am willing that the substitute of the gentleman from Kentucky should take precedence of mine. If that is passed, it ends the matter for the present. If not, I shall then read my resolution again, and insist upon the question being taken.

Rev. Dr. Mason of North Carolina, said a few words in reply. "*Fiat justitia, ruat cœlum,*" said he. Effects and consequences are with God. Our duty is plain. In the name of the Almighty we have to say that, we think there is no impediment to the election of the candidate named in these credentials. Now I disagree with my reverend friend from Massachusetts that, on the face of it, this certificate is right. Where is the evidence it contains of any election at all? And it is conceded that, if we can go behind the certificate for one purpose, we may for another. And here is one of great importance. Will this house refuse to take it into consideration? And he went again into the argument on dictation, at some length, and called the transaction a simonical one; with a difference, it was like St. Peter's being asked to sell the Holy Ghost for money; the only difference was that here the Apostleship was offered. The whole thing had been done under influence, and it should not be sustained by this Convention. So thinking, the reverend speaker could not conscientiously sign the credentials before the body.

Rev. Mr. Gallagher's proposition to substitute for the pending resolution, one sending back the testimonials, was then read, as being first in order before the Convention.

"Whereas there are doubts in the minds of many members of this Convention, whether the election of Assistant Bishop of Illinois has been in conformity to the Constitution and Canons of this Church: Be it Resolved, that all proceedings respecting the consecration of said Assistant Bishop be suspended until a future Convention of the Diocese of Illinois shall declare their wishes on the subject."

Rev. Dr. Brooke, from Ohio, demanded (for his diocese) that the vote be taken by diocese.

Hon. Mr. Newton moved an adjournment.

The vote by dioceses, *on this*, was demanded.

The motion to adjourn was withdrawn.

The dioceses were called, with the following result:—

ON THE SUBSTITUTE.

	Ayes.	*Noes.*	*Divided.*
Clergy,	9	12	5
Laity,	11	11	2

So there was no concurrence, and the proposition failed; leaving the original resolution (to proceed to sign) before the Convention.

Mr. Newton renewed his motion to adjourn.

A member—Oh no! Let us take the question.

Another—Withdraw the motion to adjourn!

Mr. Newton—By no means; the house is not now full.

And the motion prevailed.

Twelfth Day's Session.

New York, October 7, 1847.—The Convention met pursuant to adjournment.

Morning prayer was read by the Rev. John Murray Forbes, D. D., of St. Luke's Church, New York, assisted by the Rev. Wm. Henry Moore, Rector of St. Michael's Church, Manchester, New Hampshire, reading the Lessons.

The minutes of the preceding day were read by the Assistant Secretary, and approved.

Rev. Dr. Croswell offered a resolution that this convention adjourn *sine die* at 12 o'clock on Friday next.

Rev. Dr. Hawks thought the day named too early. He therefore moved to lay the resolution on the table. His motion prevailed.

Rev. Dr. Hawks offered the following resolution:

"*Resolved,* That the Secretary be directed to prepare, in the case of the Rev. Mr. Britton, Assistant Bishop elect of Illinois, the canonical testimonials required to be signed by this House, in case of Bishops elect; and that the same be laid on the table, and that this House be called on by Diocese to sign the same."

Rev. Mr. Brooks, of Ohio, spoke in reference to the objections made, during the debate of yesterday, to signing the testimonials. Referring to the remarks of the gentleman from Maryland, he said he did not consider the fact that the Bishop was able to take his seat in the House of Bishops, as at all conclusive against the statement, that he was unable to perform Episcopal duties. Those duties in Illinois require him to travel over a very great extent of country, in open wagons and in all kinds of weather; and it required very difficult physical abilities from those which were requisite in travelling by the great facilities of the present day, to take his seat here. He thought the gentleman entirely too incredulous, almost as much so as a man known to him, who believed nothing of what he heard, and only half of what he saw. He would as soon think of doubting any fact present to the senses of any one, as that of the Bishop's inability to perform the duties of his office. The technical objections to the testimonials, therefore, in regard to these points, he considered trivial and insignificant. One of more importance was that which grew out of the allegation, that the Bishop had exercised undue influence on the minds of the convention. He did not think the members of this body competent to make the inquiry into the motives of the gentlemen who voted in that case, which would be necessary in order to define the character and extent of the influence exerted—to determine whether it was undue or not. The manner of the Bishop, the strong expressions he was said to have used, and the other matters which have entered into the discussion, he thought were questions altogether of personal propriety—of good manners, with which this convention had nothing to do. We were not here to try the Bishop of Illinois for a breach of good manners, nor to inquire into his personal peculiarities. All of us have such peculiarities; some are more and some less dogmatic in their manners. But if the Bishop used strong expressions, all in the convention must have known that he had no power to carry his wishes into effect; so that they could have been under no constraint or undue influence. He begged gentlemen to consider well the precedent they would establish in this case, by such action as that proposed. The gentleman from Maryland had remarked, that when the feelings were opposed to any particular course of action, astute minds were very ingenious in framing objections to it. He agreed to the abstract principle, but did not think it applicable to the gentleman from New Jersey, as had been asserted. The gentleman from Maryland himself, in his judgment, furnished a far better illustration of his principle. He besought gentlemen not to allow personal feelings to outweigh their sober judgments, and to establish a precedent which would hereafter permit gentlemen to oppose the consecration of individuals against whom they had none but personal objections, and so to convert this convention into an arena of party conflict and personal strife. So far as he was concerned, he felt bound to say he was not prejudiced in favor of his brother from Illinois, for he held doctrines on many points to which he could not give his assent. But he felt bound to disregard all these considerations, and to take the case as it was fairly presented; and under the influence of these views, he should sign the testimonials.

Rev. Dr. Wheat, of Tennessee, wished an answer to one objection which he had urged; it was not to the individual elected, but one arising out of the canon itself, which makes provision for the election. He thought it was never contemplated by the canon, that an assistant should be elected while the Bishop should be able to attend upon the duties of this convention; that the object of the canon was to secure to every Diocese a representation in the House of Bishops. He had no objection to the individval, nor to the mode in which the election was conducted. His objections now were narrowed down to the single point he had mentioned; but upon that he wished some satisfactory answer before he could sign the testimonials.

Mr. Seymour, of Western New York, was reluctant to protract the discussion farther. But he had heard no answer to an objection more formidable, in his view, than any other thus far brought forward. He regretted that so many irrevalent issues had been introduced. His objection was this: The language of the canon authorizes a diocese to elect an assistant whenever the Bishop is *unable* to perform the duties of his office. It is not enough that he is an old man—that it is inconvenient for him to perform his duties. It must be shown that there is a positive *inability*—not merely one of that kind which merely gives one Diocese two votes here. It must not be a contingent inability—dependent on the election of a particular individual. It must not be a mere inability to perform a great variety of other duties, such as, it is well known, the Bishop of Illinois now discharges. He should resign these other engagements—he should resign the post office which he holds—the presidency of his college, the care of his mills and farms, before he asks for an assistant. The fact that he is unable to discharge all these duties, does not prove him disqualified to perform his Episcopal duties. If the election of assistant bishops under such circumstances is to be permitted, the result will be that the entire character of this body will be changed, by the introduction of a new basis of representation. The delegates from 200 churches in this house, may even now note down the delegates from 1,000, and the same is true of the other house. We ought to remember that the election of New Bishops is for the whole church, not simply for the Dioceses in which they are to have a local jurisdiction. We have a right to be satisfied, as well as the Diocese. We all meet here on terms of perfect equality—not as rich or poor Dioceses—nor as weak or strong. He hoped the time would never come when representation would be made here in proportion to numbers. The great extent of the country renders it essential that the existing mode of representation should be preserved. It is important, in reference to the union of the church—to the preservation it may be not only of christian union, but of political union throughout this great country. If this assistant bishop be consecrated, other Dioceses will not be slow to perceive that they too may be entitled to assistant bishops, and so the whole balance of power, upon very delicate and important questions, may be entirely changed. The Diocese of Illinois has a right to the services of a bishop, but not of necessity to an assistant bishop. The intention of the canon is simply to give to any diocese, which may have been *deprived* of the services of their bishop, the power to have an assistant. While the Bishop of Illinois could hold a seat in the House of Bishops, he thought the diocese not entitled to have another bishop take a seat by his side in that court. For these reasons he could not sign the testimonials of the assistant bishop elect.

Rev. Mr. Trapier, South Carolina, said he wished only to answer the objection urged by the gentleman from Tennessee, as the only one which would prevent his signing the testimonials. The objection is, that the language of the canon may have intended to give a diocese the power to elect an assistant when the bishop is not able to attend at the session of the General Convention. The language of the canon, he suggested, was entirely different. It declares that when the Bishop is unable to perform his Episcopal duties, of which most assuredly his functions, as a member of the House of Bishops, are but a small part, then the diocese may have an assistant.—The most important duties of their office, are those which pertain to their own dioceses. And a bishop may be able to attend upon the sittings of the House of Bishops, without being able to perform his duties in the diocese over which he presides. Believing that the Bishop of Illinois is unable to perform those duties, in the very extended though thinly populated diocese, over which he has jurisdiction, he felt at full liberty to say that he was satisfied upon this point, although as a member of the committee on the consecration of Bishops, he had given his assent to the report. But as a member of this House, and in view of the information which had been since received, he was prepared to sign the testimonials. We have full evidence of the Bishop's inability to perform his duties—we have evidence of an election of an assistant; and we have not the least evidence that any unfair influence was exerted upon the election.

Rev. Mr. Gallagher thought that some very dangerous principles had been set forth here, and that one of them is, that the action of this convention, in signing the testimonials of assistant bishops, is merely a matter of form. The language of the certificate bore to his mind a very different construction. It is a very solemn testimonial, to be signed from knowledge of the facts either of our own observation, or on the evidence of others. In one sense, we are as much interested in electing a bishop as the diocese itself. We are bound to guard against the election of men in any respect, or any sense unfitted for the office. Too much laxity, he thought, had long been suffered, in signing testimonials, not only in the case of bishops, but of others. He called to mind the example of Archbishop Leighton, who resigned his office, because he shrunk from the risk he run of laying hands on unworthy men. Now we hear a very different language. We are told we are not to go behind the testimonials. Perhaps when there is no question about them, this may to some extent be true. But here the diocese itself is divided; three of the clergymen of the convention, are opposed to it. All the information we have received, assures us of the piety and good character of the bishop elect.—But this is not enough. We are required to declare him of such sufficiency in sound learning, and in all respects of such good manners as fit him to be a bishop. These are points of great importance. The *canon,* he granted, does not require so stringent testimonials as many gentlemen have implied. But the certificate is more exacting, and we are required to procure all the information possible, concerning the nominee. Now most of the clergymen of that diocese, as we have been assured, were ignorant of the qualifications of the nominee, when his name was first presented. So far as we have been informed, all the knowledge they possessed, came from other quarters. No considerable portion of the clergy had any personal knowledge of the nominee. Even the gentleman who nominated him, told us that all his knowledge of him was derived from the gentleman who now opposed his confirmation.

Rev. Mr. Kelley said he had been misunderstood. He did not derive his information from the Rev. Mr. Giddinge. That gentleman merely corroborated what he had heard from other sources.

Rev. Mr. Gallagher said that at any rate, we are bound to get evidence upon the subject of his fitness, and also as to the mode of his election. He must be a man of more than ordinary learning—of high intellectual acquirements; and it is upon this subject that we especially need more information than we now possess.

Rev. Dr. Neufville asked attention to the language of the second section of the Canon referred to.

A Message from the House of Bishops announced that they had receded from their first resolution upon the subject, and now concurred, with the House of Deputies in designating Cincinnati as the place of holding the next session of the General Convention.

Another Message announced that the House of Bishops had received the accompanying invitation, which, however, they had declined. The invitation was not read, but was understood to be an invitation to attend the Washington Monument Celebration.

Mr. Williams reminded the House of the fact that the certificate *we* are required to sign does not specify the learning of the individual nominated; that is required in the certificate to be signed by the Diocese of Illinois.

Rev. Dr. Van Ingen said we were required to endorse the Diocesan certificate.

Mr. Gallagher said he was only anxious that we should not take these points for granted, in signing these testimonials, but investigate them for ourselves.

Rev. Mr. Kelley said that the Assistant Bishop elect had undergone two examinations which had resulted in pronouncing him of sufficient learning; and he should propose that this House appoint a committee for the satisfaction of gentlemen.

Mr. Gallagher said the gentleman could make suggestions for himself:—but he should be governed by his own view of propriety and duty.

The President said the gentleman from Illinois must be aware that his proposition was out of order.

Mr. Gallagher said he felt that he had a solemn duty to discharge in signing the testimonials. Some gentleman had volunteered to him the information that the candidate was not of sufficient learning; but now he found they had changed their ground. But upon their information he had based his opinion, expressed yesterday, that a majority could not be obtained to sign the testimonials; and as one who was friendly to the individual concerned, he wished that the matter might be referred back to the Diocese, and there made the subject of less precipitate action than that already taken.

Rev. Mr. Chase, of Ill., said he did not desire to go into any argument in this matter, but there were some facts which seem to have been misapprehended, which, in his view, ought to be laid before the House. He had sought an opportunity several times to do this yesterday, as they would have been more pertinent to the course of debate then pursued. But he was unable to get a hearing and he would state them now. In the first place, with reference to the evidence concerning the Bishop's infirmity, there were certain facts within his personal knowledge, and within the knowledge of the Diocese of Illinois, which gentlemen present did not seem to keep in mind. The Convention of Illinois acted on the full conviction that there were in the Bishop's case physical causes of permanent infirmity. He was so far disabled by the accident which happened to him some two years since, that he could not walk half a mile without sitting down:—he could not stand up long enough to preach an ordinary sermon, and had not preached for the last two years without being bolstered up in a sitting position;—and he was unable either to dress or undress himself. He must be excused for mentioning these details, but they were facts within his personal knowledge, and on a full conviction of which the Diocese of Illinois had acted. And so strong was their conviction of these facts, that when the General Convention would exact any further evidence of infirmity, the fact was considered too notorious to occasion a moment's doubt. It is true that the Bishop is now in attendance in the House of Bishops; but all know that, in consequence of the facilities of travel, a person may make a journey of thousands of miles with far more comfort than a shorter journey at home. The Diocese of Illinois is eight times as large as that of New Hampshire; and yet in the latter the facilities for travel are eight times as great as in the former. The same thing is true, with tenfold force, of Rhode Island. These are facts within the knowledge of all. Then, as to the undue influence said to have been exerted by the Bishop on the election. The informal remarks which he made in the morning, were certainly calculated to have an influence on the minds of members. They were earnestly made, because they were deeply felt. But that there was any undue influence, and improper influence, exerted, he did utterly and solemnly deny. However earnest and solicitous the Bishop may have been, he did nothing of a character which could justly be so called. As to his "*commanding*" them on their oath of canonical evidence, to make the election,—he was present and he declared that nothing of the kind occurred. He knew not in what such a mistake could have originated; that it was a mistake he did most solemnly affirm. And next, as to the fact of the election having taken place,—he would simply call attention to the record. A more deliberate act he did not believe had been performed in the United States for twenty years, than that election. He did not speak of the remarks made in the morning—those were informal—but of the election held in the afternoon. After the morning session the Convention adjourned, held divine service, dined, had a recess of several hours, during which, inquiries were made, and consultations held; and when they assembled in the afternoon, with perfect calmness, sobriety, and seriousness, the election was deliberately gone into, and deliberately held. All the provisions of the Constitution were fully complied with; and the candidate received a large majority of the votes; larger, he believed, than are cast in nine-tenths of the similar elections held in the United States. After the election was over, miscellaneous business was taken up: an entire set of Canons was reported and adopted, with none but verbal alterations, so great was the unity that prevailed: and when it was announced that the papers were ready for signature, there was no hanging back, all came forward—the whole Convention—and affixed to it their signatures. Where then are the charges of precipitancy, of undue influence, of insufficient testimonials?—Every individual had ample time to make inquiries:—all were perfectly aware what they were doing. For his own part, he never acted more calmly, more seriously, or under a more solemn sense of duty, than when he affixed his name to that paper, He did it deliberately, and in the fear of God. And he could not conceive that he had any right to withdraw his name, unless new matter had been discovered to show that his action was improper. But none of these alleged objections were of subsequent occurrence. The course of debate had been such as completely to falsify the testimonials from the Diocese. He was for this reason opposed to sending them back.

Rev. Dr. Ogilby rose to a question of order; the question of reference had been decided, and these remarks were therefore irrelevant.

The President said this was so;—the question of reference was not before the House.

Mr. Chase said he hoped, then, that the House would hear what little he had to say for courtesy's sake. It did seem to him that gentlemen had proceeded upon the basis that the testimonials from Illinois were insufficient, if not false—he thought they implied that they were false. The Convention of the Diocese had pronounced the election free and canonical, and the testimonials sufficient. He hoped the House would receive them and that they would be signed.

Rev. Dr. Van Ingen hoped the day would never come when this wretched system of bringing an individual up before the House would be repeated. He had witnessed it now in two successive sessions, and had opposed it in both. The elected Bishop stands before us with his testimonials in his hand, and asks us if we will approve them. It is with him we have to do. If we are not satisfied with him let us lay the matter on the table until we can make inquiry:—but never again let us have such a discussion as this, so wringing the heart of the individual and placing every one of us in so false a position.

Mr. Bodley, of Ky., moved a resolution of yesterday's motion to refer the matter back to the Diocese of Illinois.

The President said the motion was not in order.

Mr. Bodley said he made the motion as one of the friends of Mr. Britton whom he knew and loved; and he appealed to all his friends to take the same course.

Rev. Dr. Ogilby rose to say a few words, when

Judge Burnet, of N. Y., called him to order as he had spoken twice.

Dr. Ogilby said he had not spoken even once upon the motion now before the House. He simply wished to call attention to the altered position of affairs since yesterday. Then the question was simply on referring the matter back to Illinois; and then he maintained the Diocese had already done all that was required of her by the Canon, and that it was now incumbent on this Convention either to affirm or disallow the testimonials. He took no ground whatever on the question now before the House. The question yesterday, was, "Has the Diocese of Illinois done its duty? Is Mr. Britton fairly before the House as an Assistant Bishop elect?" The House decided that he was. And now the question is, Is Mr. Britton a proper man for us to confirm as Assistant Bishop? And on this point he had a few words to say, first in reply to the gentleman from Maryland, who suggested that the reverend gentleman from New Jersey might perhaps have been tempted by his unwillingness to do an unpleasant duty, to be *astute* is discovering reasons for its evidence. He regretted to be obliged to prove that this was not correct.—He defended the rights of the Diocese simply—he took no ground upon the question of the fitness of the gentleman for the office. That question he now felt bound to entertain:—and after making every inquiry into the case possible to him, after going to the fountain of information on the subject, to parties prejudiced in his favor, he felt bound to say that he was not satisfied that he was a man of such sufficiency in sound learning as to qualify him for the office of a Bishop; and he could not, therefore affix his name to the testimonials.

Rev. Mr. Gallagher moved to lay the motion on the table, in order to bring up the question of reconsideration.

The delegation from Ohio called for a vote upon this motion by Dioceses, whereupon it was *withdrawn* by the mover.

Judge Huger of S. C., said that, however it might be with others, he could not act until he understood the subject. The gentleman from New Jersey had presented the only point relevant to the question, that relating to the sufficient learning of the nominee. We had no right to decide the other points discussed,—whether the convention was influenced by bribery and corruption, whether the Bishop was old or young. He had been a judge in Civil Courts,—and he should always shrink from deciding such points as these: he was not competent to do it, yet here they insist that, as a judge in the House of God, he shall decide them. The House had no right to entertain such a question. We are only authorized to sign the testimonials, not the credentials, of the Assistant Bishop elect,—he will have his credentials from the House of Bishops. We are simply called upon to take action ancillary to them—to certify testimony to be presented for their action. It was something perfectly new, in his view, that we, the lower House, should be called on to decide an election in the upper House. Bishops have the same right that we have. We do not say to them that this man shall be a member of that House. The Bishops are to decide on the qualifications of their own members. It is a perfect anamoly for one House to judge of the qualifications of membership in another. But one House may *ask* the other for testimonials to enable them to judge of the qualifications of their members. The House of Bishops don't ask us to say whether the Bishop is old or young—but simply whether the nominee is a learned and proper man for the office. The certificate simply states that these who sign it believe him to be a proper man. But none of us will sign it unless the House by a constitutional majority vote that we shall. He had manifested his deference to the judgment of the House by keeping his seat in this body against his own conviction of his right to it. It could only enable him to sign testimonials as to the qualifications of the gentleman, in point of learning and character for the office. And if he believed him not to be qualified, he could not conscientiously sign the testimonials. When he recollected the high attributes of our Bishops, he shuddered at the thought of placing an unworthy man in high office. Two of them, whom he had known, the Bishops of New York and South Carolina, he believed to be superior to any other men he ever knew. They possessed the very highest attributes of character, and he had no doubt either of them would have been the first in any position in which he might have been placed, army, senate, judiciary or any where else. He mentioned this to show that his notion of the character of the man who should fill that office was very high. And the gentleman from New Jersey has stated that in his opinion the gentleman has not learning and intellect enough for the office. This was the only remark made during the whole discussion which had made the slighest impression upon his mind. If that opinion is correct the testimonials ought not to be signed. The gentleman says the evidence is sufficient to satisfy *his* mind upon that point: and he thought it was his duty to submit it to the convention, to enable others to be equally satisfied.

The question was then very loudly called for, and taken by Dioceses, with the following result.—

	Ayes.	Noes.	divided.
Clergy,	11	16	1
Laity,	7	10	6

The motion to sign the testimonials was therefore *lost.*

[Before the result of this vote was announced and while the Secretary was engaged in counting the votes, the President informed the House that the invitation extended to the Convention, was from the Washington Monument Association, and through some error the duplicate did not reach the House.]

Dr. Ogilby then moved a reference to the Standing Committee of two resolutions which he had drawn and which, he thought, the proceedings of the last three days rendered necessary. The first was directed to the Committe on Canons to inquire into and report upon the expediency of repealing Canon 4th of 1842, entitled "of Assistant Bishops," and in case the repeal was deemed inexpedient to report such amendments as might seem to define more accurately the mode of ascertaining when the contingency contemplated by the canon shall have arrived. The second resolution made a similar direction to the Committee with regard to the expediency of repealing canons 2d and 5th of 1832. His object in offering these resolutions was to guard against unprofitable discussions in that House.

The reference was then ordered.

Rev. Dr. Jarvis of the Committee on Canons, reported two canons—one relative to deficiency between rectors and their congregations, and the other relative to the formation of congregations within the limits of parochial charges.

Ordered to be printed.

On motion of Mr. Collins, the invitation of the Washington Monument Association was called up, and it was resolved that the House concur with the resolution of the House of Bishops, respectfully declining said invitation.

The message of the bishops on the report of the Committee to whom had been referred the "New York resolutions," was then taken up, and was read by the Secretary.

Mr. Van Ingen made a few remarks admonishing the Convention of the duty of calm and sober deliberation in this matter, and the wisdom of avoiding mere speech-making. What he had himself to say, he reserved for another occasion, and now rose only for the purpose of moving that the first canon be taken up with the amendments proposed by the House of Bishops.

Mr. Rives, of Virginia, concurred in the propriety of the motion of the gentleman from Western New York.

The motion was then put and agreed to.

Dr. Van Ingen simply explained the amendment. It was supposed that a power of revision of the acts of diocesan bishops, was given in the canon as originally reported. To obviate that the amendment inserting the word "collecting," was proposed. The other alteration was suggested by an unwillingness to have the entire discretion of convening the meeting of the House of Bishops to the presiding Bishop.

Mr. Evans concurred in the last amendment, but thought the language was not sufficiently precise.

On motion, it was then agreed to take up the amendments separate.

The first amendment was then agreed to.

Mr. Evans then moved to amend the second amendment, by inserting the words "shall be," before "convened," making it imperatible on the presiding bishop to call the meeting.

Dr. Van Ingen thought there was no possibility of evading a call, if five bishops made the requisition.

Mr. Evans wished to provide against contingencies. He was opposed to the practice of concentrating power in the hands of the presiding bishop.

Dr. Van Ingen suggested the addition of the word "special" before "meeting."

Mr. Evans accepted that additional to his amendment.

The question was then put on this amendment, and it was agreed to.

Rev. Mr. Forbes moved an amendment substituting the words "bishops of this church," for the "House of Bishops."

Mr. Wharton, of Pennsylvania, thought it would be better to have the expression, as the House of Bishops had left it. If the change were made, a question relative to the right of a foreign bishop, might arise.

Rev. Mr. Trapier suggested that the constitution had provided against the exercise of any Episcopal authority of foreign bishops.

Mr. Williams, of Virginia, thought there would be no misunderstanding in the subject, and it was better to have the canon as it now stood.

The Secretary stated that in the record of the House of Bishops, they sat as a House and acted all as a House of Bishops, after the dissolution of the General Convention. That was, he thought, contrary to the constitution, and should be regarded against hereafter.

Mr. Van Ingen asked the Committee on Canons whether any phrase had been adopted as a substitute for the expression.

Rev. Mr. Forbes answered in the negative.

Mr. Newton of Mass. drew the attention of the House to the fact that at the last Convention it was decided not to receive a certain paper, and yet the House of Bishops had received it as a House. It was right to take care not to insert a phrase which might lead them into serious difficulty.

Mr. Wharton remarked that if the phrase "Bishop of this Church" were adopted, there might be included some who had resigned the office.

Rev. Dr. Ogilby remarked that the Bishops were not constituted as a perpetual corporation of the Constitution. They had no such officer as a Presiding Bishop. There was a senior Bishop who acted as the organ of the Bishops by the agreement of the two Houses. If they made it perpetual, then they had radically altered the organization of this confederacy.

Rev. Mr. Young, of S. C., reminded the House that at the last Convention a certain memorial was directed to the House of Bishops, and they refused to receive it on that account, thus clearly making a distinction between their character as a House of Bishops and the Bishops of this Church.

Mr. Memminger proposed to make the amendments read "the Bishops of the Church entitled to set in the House of Bishops." The constitution defined who should set in the House of Bishops.

This manifestation of the amendment was accepted and agreed to.

Rev. Dr. Ogilby then moved to substitute for the word "presiding" the word "seven" Bishops.

Rev. Mr Trapier objected to this amendment, on the ground that the Constitution recognized the senior Bishop as the presiding Pishop.

Dr. Ogilby explained.

Mr. Ingersoll, of Pa., suggested that the senior Bishop might not be able to preside, and then they had no presiding Bishop. He was in favor of retaining the term now used.

Mr. Williams, of Va., read from the canons to show that the term presiding Bishop was recognized by law.

Rev Dr. Jarvis remarked that when in session there must be a presiding Bishop. The Bishops could make their own rules. They had done so. They began by presiding in rotation, and might resort to that rule.

Mr. Memminger offered the amendment.

Dr. Ogilby then withdrew his amendment.

Mr. Memminger then remarked that the proposal in the canons was one quite new to any one accustomed to the jurisprudence of this country. But would not object to it on that ground. He wished to have this experiment sufficiently proved. He believed that the power of pardon was properly a judicial power. The executive abused that discretion. He was therefore gratified at this proposal, and wished it fairly tried. But as it was confessedly an experiment, let it be wisely guarded. He therefore proposed so to amend the canon as not to allow this power to vacilitate, so that a small number of Bishops could overthrow what the majority had done. The time and place of meeting might be inconvenient to the majority of the Bishops. He therefore proposed to insert the words—"the majority of all the Bishops entitled, &c. consenting thereto."

Mr. Hudson of Western New York believed that the power of pardon necessarily existed in the government. But wherever the government decided to place that power, then it was deposited where the government ordered. The Church acting in its legislative capacity had placed the power of pardon in the House of Bishops, of which a majority was competent to convict or acquit. He submitted then that the same number of Bishops competent to try and punish was properly to be entrusted with the attribute of remitting pain and penalties. He therefore suggested a modification of the amendment offered by his learned and honorable friend to that effect.

Mr. Williams observed in reply that all the Bishops entitled to seats were present, and therefore it could not be supposed that any effect was intended on a pending proposition. He thought that the propriety of requiring the assent of a majority of all the Bishops was apparent from the fact that they were authorized to act not only at a triennial meeting but at special meetings. It was extremely inconvenient on account of the expense and time for many of the Bishops to attend special meetings. Was it right that in any contingency a legislation should be made which would place it in the power of a smaller number to reverse the judgment of a larger number? The power of pardon was an act of grace; and if a new trial were directed, should a smaller body have the power of doing that? Again, the five Bishops making the requisition, and who of course were to be supposed to be favorable to the exercise of the pardoning power, would be present at all hazards

Judge Chambers proposed an amendment of the proposition which would, he thought, meet the views of all. It was to the effect that remission after the sentence could not be made by a smaller number of Bishops than that by which the sentence was pronounced.

Rev. Dr. Mason proposed another amendment. It was to the effect of doing away with the especial meetings altogether.

Rev. Mr. Van Ingen asked, how would it be in case the bishops wished to meet and settle the matter a month before the General Convention, in order to dispose of it?

Dr. Mason did not like to be interrupted by questions that was not revalent. He explained his views in offering his amendment.

Mr. Memminger accepted the last amendment. He desired fixed action, and wished to avoid accidental decisions. He wished to prevent seven or eight gentlemen from deciding contrary to the views of the majority of the body.

Dr. Ogilby desired some information. Suppose an error was made in convention, must the victim suffer for three years before he obtains redress.

Dr. Mason had a serious objection to the amendment. It might be impossible to obtain redress of wrong. An unjust sentence might thus never be repealed,

Mr. Hudson proposed modification to the effect, that a quorum of bishops should be required to concur in the actions of the special meetings.

Mr. Evans opposed the proposition to confine the exercise of the pardon power to the meetings of the General Convention. Was the power of pardon to be exercised at any stated periods? The bishops could condemn at any time. But they could exercise the pardoning power only once in three years! If he were to strike out any portion of the canon, it would be that authorizing them to act in General Convention, because that was not the most fitting time for the examination of the case. They had then a control through the whole country. If the theory of the gentleman from South Caroliona were true, then the lower house was to advise the bishops in these cases. That would lead to great disadvantages. As to the fear of the bishops not generally attending, it was not at all likely that there would be any neglect on their part. A sense of duty, and their own feelings in the matter, would lead them to attend the special meetings.

Pending the consideration of this question on the amendment,

On motion, the House adjourned till next morning at the usual hour.

Thirteenth Day's Session.

Wednesday, Oct. 20th, 1847.—The Convention met pursuant to adjournment.

Morning Prayer was said by the Rev. John V. Van Ingen, D. D., Assistant Minister of St. Paul's Church, Rochester, W. N. Y., assisted by the Rev. James Craik, Rector of Christ Church, Lexington, Kentucky, reading the Lessons.

The minutes of the preceding day were read by the Assistant Secretary, and approved.

Rev. Dr. Van Ingen desired that the most calm and candid attention should be given to the report of the Committee as it was first introduced—and especially that gentlemen should disabuse their minds of any suspicion that there was any thing like a snare in its provisions. In the Committee there was the most serious and deliberate attention given to the whole subject in all its bearings, and an entire confidence that its recommendations would meet with concurrence, when they should come to be carefully weighed. In the few remarks he had to offer he should assume, in the first place, that the sentence of the Court is a *conclusive* judgment of the convention, because this court is the court of last resort, and its decisions are without appeal. If the opinion is entertained that the sentence itself, from its very form is void, who shall pronounce that opinion authoritatively? No one can do it but the court which pronounced it, and that it is clear cannot be done. In the second place, the question of the *justice* of the verdict is not one for us to entertain, except as it may come in incidentally—for purposes of remission or of mercy. In the third place he took it as a fact that an *exigency* existed among us—how created, and of what nature, remains to be examined. The anomaly consists in the fact that the abnormal form of the sentence suspended the Diocese as well as the Bishop, and that indefinitely. This anomaly was created by the inadvertence, the omission or the design of the Court which passed the sentence. Its effects are to preclude the Diocese from procuring Episcopal service without permission from the Bishop—since his jurisdiction is not voided, and no tribunal of appeal exists to which he may resort for relief or redress. The Diocese asks for such relief as is clearly within our power. Where does that power reside? What remedies, and by whom, can be afforded? Several have been proposed. The first of these is that the General Convention shall, by some act, justified only by the emergency, suspend the jurisdiction and so declare an absolute *vacancy* of the Diocese. It is enough to say in reply to this, that it is an aggravation of the sentence—making it not only suspend the functions, but cut off the jurisdiction and the income of the Bishop, and so aggravating the sentence pronounced upon him. This we have no power and no right to do.

Judge Huger rose to a point of order. He thought the gentleman was about to make an admirable speech, pertinent to the matter, and he did not wish to lose it. He thought the time had not come for the course of remark on which he was entering.

Dr. Van Ingen said he was speaking to an amendment which was before the House.

Rev. Dr. Gallagher inquired what amendment he referred to.

The President stated the precise question before the House to be an amendment declaring that the sentence should be remitted only by the same number of Bishops that pronounced it.

Dr. Van Ingen said he was speaking to this point and also to the proposition to which this was an amendment,—to the effect which it would produce. A second proposed remedy—and he discussed them only to call attention to this point,—where does the power of remedy reside—without the Bishop be allowed to *resign* and so cut the knot himself. This, so far as it comes as a request from the House, simply asks him to aggravate his own sentence, and as such must be rejected by every generous mind. It is a request that we would destroy his own life, in order to get rid of a maimed link. A third proposition he was about to state when

Mr. Williams, of Va., called him to order, and asked that the discussion be confined to the special subject under debate.

Dr. Van Ingen asked from the courtesy of the gentleman to be allowed to go through his remarks.—The proposition to pass the sentence in silence and authorize the election of an assistant, is equally objectionable on the same ground, that it aggravates the sentence, and the fact that all these remedies go to the aggravation of the sentence indicated to his mind that it is the sentence itself which has created the anomaly. He, therefore, did not feel responsible for that anomaly. Remedial action must begin where the evil exists. The sentence is the root of the anomaly. It must be said that it is void. If it were so we have no power to provide a remedy. Our power is not that of a physician, whose duty it is to perform an operation at any risk. It may possibly appear that our duty will be best discharged by doing nothing and giving our reasons for it. Our remedies, it seemed to him, lay wholly in general legislation, such as is recommended in the canons proposed. We must provide for an appeal—otherwise we afford no effectual relief. This had been the main point presenting itself from the beginning to his mind. We must give a power of appeal—open to all of the parties concerned, to the individual sentenced, as no one could doubt, to the Diocese as all must feel—since otherwise the chair of a Diocese might be vacated without any agency of its own by a Bishop from a distance,—and also to the presenters. The Canons proposed to effect these objects, and he therefore hoped they would be adopted in their integrity.

The President said the debate was going to a greater length than he had been led to believe. He thonght the remarks out of order.

Mr. Williams hoped he would be kept to the subject.

Dr. Ogilby hoped that all would consent to be held to the strictest order, on consideration of the probable extent of the discussion.

Dr. Van Ingen proceeded to say that the canon under discussion provides expressly for appeal—proposes to give relief by affording an opportunity during the intervals of the sessions of this Convention for application. It has been proposed that the same number of Bishops which pronounce a sentence be required to remit it. He was opposed to this, because then a portion of the Bishops from one section of the country might pronounce sentence, and Bishops from other sections might remit it—and this would be a still greater anomaly than that which now exists.—He thought the power provided by the canon, giving a majority of the Court power to remit sentence, afforded the relief desired. No relief which may be provided can be sanctioned without a vote of the majority of that court: to this point we must come at last. He would not longer detain the House.

Rev. Mr. Brown, of Ohio, thought it useless to waste so much time upon what might prove fruitless amendments, and he hoped the whole question would be thrown open—that members would not be kept strictly to the question. The discussion should be confined to the *subject* of the canons, but not to the particular amendments that might be proposed.

Several gentlemen objected to this.

Mr. Wharton, of Virginia, asked how the assent of the bishops spoken of in the amendment, was to be obtained, individually or in a meeting of the body?

Judge Chambers—at a meeting, when properly assembled. He preferred to accept as a substitute, the proposition that the consent of a *majority* of the bishops be obtained; and accordingly moved an amendment to the effect that remission or modification of the sentence should only be made by a majority of the whole number of bishops, at the time entitled to seats.

Judge Burnet had yet to learn that there was any exigency existing, or likely to exist, requiring a departure from the ordinary rules which govern judicial action.—One of these settled rules, observed in all countries, and in all kinds of courts, was, that a majority of any court should constitute a quorum, and have power over any subject that should come before them. Various attempts have often been made to provide a different rule, but the result has been, that this must, in the end, be adhered to. Now is there anything in the question before the Church, which should constitute a sufficient motive to contravene that rule? There was not, so far as he was informed, the thought there was any danger of one deliberation being influenced by a particular case. There is always danger of attempting so to fashion general rules as to meet particular cases. It ought never to be done, and we should not be drawn off from the fact that we are here assembled to legislate on general principles, and form a class of cases likely to be brought within a general category. Now it is clear that too much lenity is likely to be exercised by the Court of Bishops? Unless there is good ground for that apprehension, he thought there was no occasion for us to require a greater number than that necessarily required to remit a sentence. It is already provided by the Canons, that no injury shall arise to the Church from this source, except during the recess of the General Convention. And is it probable that Bishops would put themselves to the trouble of attending courts in order to exercise an excess of lenity? Even if they were to do so, the extraordinary character of such action would excite the vigilance of others, and so would counteract the danger. He could not harbor such a suspicion. And unless there is room for it—unless there is a strong probability of it, he could not think we should be justified in guarding against it, by special enactments. He was opposed to any change in the mode of proceedings ordinarily observed in other judicial bodies. He especially besought gentlemen to withdraw their minds from particular cases, and confine themselves to general principles.

Mr. Memminger, of S. C., was at a loss to see any authority for the general rule laid down, that a majority should have a power over all subjects that might come before it. It is a rule of consent. It does not obtain, except by consent. In this body more than a majority is required for action upon many questions. The same is true of the constitution of the United States, and of the several States. It is very often provided that certain action shall be taken only by vote of two-thirds, or three-fourths, and with regard to judicial rules alluded to, how is it in the court of King's Bench in England? Why there a single judge may pronounce a sentence, which only a majority of three to one of the judges can reverse. It is always a question of expediency; it does not rest upon any general principles of law, but as provisions specially made in special cases. And now the question is, shall we allow a bare majority, not simply to pardon an individual who may have been sentenced, but to restore a public functionary who may have been disgraced. If a judge be convicted of receiving a bribe, we may, on proof of penitence, consent to forgive the man, but never entrust again to his hands the administration of justice. Here we are legislating not simply upon a question of individual character, not merely of restoring a public functionary to office, but on matters connected with the eternal salvation of man. We are legislating for the Church, and the whole subject must be strictly guarded. The power of pardon and of restoration, should not be given to a body that may change from day to day—it should not be left to a bare majority; the constantaneous opinion of the whole court should be required.

Mr. Seymour, of Western New York, said that the proposition had been long before his mind, and he thought it to be right, both with reference to general principles and to the particular case now before the House. All who have spoken have urged us to forget this special case. This is undoubtedly right if it were possible. He thought we had better approach the whole subject plainly and directly. The difficulty, as made manifest by the division, arises from a want of confidence as to the object of the propositions introduced. He hoped such a course would be adopted as would remove all unjust suspicion upon this part, and enable members to act freely upon general principles put forward. He thought it right that no bishop, who has been suspended from any cause, even for mental aleniation, should be restored, unless a majority of the House of Bishops should say that, in their judgment, he was a proper person for the office. If the House would agree upon this, it they would fix upon a tribunal to determine questions of this character, "shall the majority of that tribunal be requisite to such decision?" then we shall have got clear of the whole difficulty. Other considerations will be mere matters of form. The decisions of that tribunal will then be final. If we can reach that point, our difficulties will be at an end; and other actions will be matter of inference, unless it be calculated to effect the action of that tribunal. To such action he should be opposed.

Rev. Chas. Mason, of Mass., asked attention to another point. The tribunal, under this canon, will be a special court. There will, therefore, be difficulty in getting a large number to attend, and probably not more than half would be present. It would be obvious, therefore, that under this canon, in such a case, no decision could be attained. It would therefore virtually prevent action. The number of Bishops is now thirty, and may soon be fifty or seventy; and when we have bishops in Oregon, California, Texas and *Mexico*, as we probaby shall have, great difficulty will be experienced in getting together a court, and in enabling all of them to obtain an accurate and sufficient knowledge of the subject. It seemed to him that all the difficulties in the case should be brought before them, and he feared there would be great embarrassment in carrying out the amendment.

[*Continued in Supplement.*]

Married,

In Christ Church, Cooperstown, Otsego county, October 13th, by the Rev. Amos B. Beach, of Butternuts, the Rev. Alfred B. Beach, to Miss Catharine Nelson, daughter of Hon. Samuel Nelson of Cooperstown.

At Jamaica, L. I., on Monday evening, October 20th, by the Rev. G. H. Sayres, Gilbert Sayres, Esq., and Anna Leak, daughter of the late William I. Seaman, Esq.

Notices.

The Corner-stone of St. Saviour's Church, Maspeth, L. I., will be laid on Monday, the 1st of November, in the morning, by the Rt. Rev. Dr. Potter, Bishop of Pennsylvania. Morning Service will be celebrated at half-past 10 o'clock, and the laying of the corner-stone will take place immediately after it. The clergy of New York and its vicinity, and Churchmen generally, are invited to attend The clergy will please to bring surplices with them.

There will be stages running from foot of Grand street, Williamsburgh, from 9 to half-past 9 o'clock, to take passengers to and from the Maspeth Hotel, in the upper room of which Morning Service will be held

October 30, 1847.

Acknowledgments.

Domestic Missons.—Since his acknowledgment of the 19th inst., the Treasurer has received the following contributions:

From Rev R W Goldsborough, Md, half, 2 50; St John's, Salem, Wayne co, Penn, 1; St John's, Northampton, Mass, 5; Rev S B Bostwick, half, 2 50; collection at the missionary meeting at St Bartholomew's ch, half, 164 25; St Matthew's ch, Wheeling, Va, half, 20; collection at the Missionary meeting at Ch of the Ascension, 192 18. Total, $392 43.

THOMAS N. STANFORD, Treasurer,
New York, October 26, 1847. 139 Broadway.

Foreign Missions.—Since his report of Oct. 19th, the Treasurer acknowledges the receipt of the following amounts:—

Collection at the Missionary meeting in St Bartholomew's ch, 161 25; anonymous, per Rev Dr Robertson, for Constantinople, 25; St Matthew's ch, Jefferson, Ky, 13 95; Rev R W Goldsborough, Md, half, 2 50; R D, for China mission, 5; Sunday school, St George's ch, Flushing, L I, for education of a child, China, 25; St Matthew's ch, Wheeling, Va, 10; do, do, for Constantinople, 10; collection at the missionary meeting in the Ch of the Ascension, 181 43. Total, 414 13.

J. SMYTH ROGERS, Treasurer,
281 Broadway.
New-York, October 26, 1847

Chapel of the Holy Comforter.—The undersigned acknowledges with great pleasure the receipt of $10 from St. Paul's Church, New Haven, for the purchase of books for Seamen. This is the second donation of this distant Parish within a few weeks. The Missionary earnestly hopes that so generous an example may put it in the hearts of many of God's children in other portions of the Church to do something for this important object. His supply of books is scarcely equal to the probable demand of the next two weeks; and he is constrained again to ask, if there are not those in the Church who, like the members of St. Paul's Church, New Haven, are disposed to contribute, and who will without farther solicitation, send their donations to Messrs. Stanford & Swords, Broadway, or Thomas C. Butler, John street.

D. V. M. Johnson, in charge of the
Chapel of the H. C. for Seamen and Boatmen.
New York, October 26th, 1847.

Calendar.

OCTOBER.

24. Twenty-first Sunday after Trinity.
28. St. Simon and St. Jude the Apostles.
31. Twenty-second Sunday after Trinity.

NOVEMBER.

1. All Saints.
4. Thanksgiving Day.—*Unless some other day is appointed by the Civil Authority.*—A Proper Anthem (*printed in the* Special Service *for the day*) instead of "Venite Exultemus."
7. Twenty-third Sunday after Trinity.
14. Twenty-fourth Sunday after Trinity.
21. Twenty-fifth Sunday after Trinity.
28. Advent Sunday.
30. St. Andrew the Apostle.

THANKSGIVING-DAYS,
Appointed by the Civil Authority.

November 25.—Missouri, New Hampshire, Massachusetts, Indiana, Pennsylvania, Rhode Island, Maine, New York, Connecticut.

N. B. A proper Anthem is appointed in the Special *Thanksgiving Day Service*, instead of "*Venite Exultemus.*"

NEW ENGLISH THEOLOGICAL BOOKS.
Imported by D. Appleton & Co., 200 Broadway,
Kennaway's Sermons, preached at Brighton, 2d series.
Sermons by Rev. Wm. Cleaver, M. A, 1 vol. 8vo.
Sermons for Saints' Days, by Rev. G. E. Biber, LL.D. 1 vol.
Exton's Sixty Lectures on the Psalms, 1 vol. 8vo.
Evans's Ministry of the Body, 1 vol. 12mo.
Bp. Wilson's Works, vol. 2, (Sermons 1 to 50.)
Bunson's Church of the Future, 1 vol.
Neale's History of the Holy Eastern Church, 2 vols.
Troysden's Vindication of the Church, new edition, 1 vol.
Slade's Parochial Sermons, vol. 7.
Townsend's Ecclesiastical and Civil History, 2 vols. 8vo.
D'Oyly's Parochial Sermons, 2 vols. 8vo.
Bailey's Rituale Anglo Catholicum, 1 vol. 8vo.
Tyrukitt's Expository Sermons, 2 vols.
Shepherd's Christian Obligations of Citizenship, 1 vol.
Maskell's Monumenta Rituala Ecclesiæ Anglicanæ, 3 vols.
Crakenthorp's Denfensio Ecclesiæ Anglicanæ, 1 vol.
Bishop of Tasmania's Lectures on Church Catechism, 1 vol.
Brogden's Catholic Safeguards, vols. 1 and 2.
Stephrem's Homilies, (translated,) 1 vol.
Watson's Sermons for Sundays, 3 vols.
" Sunday Evenings at Home, 2 vols.
Archbishop Bramhall's Works, new edition, 5 vols.
Collier's Ecclesiastical History, new edition, 9 vols.
Aquinas's Commentary on the Gospels, 8 vols.
Elliott's Horæ Apocalypticæ, 3d edition, 4 vols.
Bishop Andrews's Sermons, new edition, 5 vols.
Landon's Manual of Councils, 1 vol.
⁂ List to be continued.
October 20.

DR. JARVIS'S NEW WORK.
D. Appleton & CO. publish this day,
REPLY to "Dr. Milner's End of Religious Controversy," so far as the Churches of the English Communion are concerned, by the Rev. Samuel Farmar Jarvis, D.D. 1 vol. 12mo.

"The End of Religious Controversy may mean its objects or its termination. Its objects should be *Truth,* but is often victory—to make the *worse* appear the *better* reason. Its termination can never be until Truth has triumphed. This is a consummation devoutly to be wished by every pious mind, but hardly to be expected in the present state of error, confusion and sin. Names are mighty things; and the dexterous use of them often gives to falsehood the semblance of truth, and to truth the appearance of falsehood. No candid and honest mind will knowingly receive falsehood, or reject truth; but there are motives of various kinds which operate on our passions, and discolor, obscure, or disturb our mental vision. How far these remarks are applicable to Dr. Milner's End of Religious Controversy, it shall be the object of the following pages to determine."
October 30—1t

ORGAN BUILDING CHEAP!
THE subscriber having located himself at Buckram, Long Island, a few miles from the village of Glen Cove, is prepared to execute orders for every description of Organs now in use, with all modern improvements, at a lower price than any other establishment in the United States. His long experience both in Europe and America, warrants the assertion that for workmanship, richness of tone, &c., his organs cannot be surpassed—they will be delivered in New York free of charge, and carefully packed for transportation. Orders addressed as above will meet with prompt attention.
October 30—tf HENRY PILCHER.

For the Churchman.

THE SOLDIER'S BURIAL.

It is the holy eve of that high day
When our Redeemer rose again from death.
The autumn sun is sinking in the west;
While bright his golden gleam tracks the blue sea
Like footsteps of the angels. The glad hymn
Hath ceased; and hearts, bowed 'neath the priestly hand,
Have felt how wondrous to the human soul
Our Holy Mother's voice, how full of peace!
The soft low winds make music, as they shake
The withered leaves to earth, and call around—
From the soul's inmost chambers, where, enshrined
They rest in memory's temple—forms long loved,
Nor less beloved since they have passed away!
And voices sweet, whose echo long hath slept,
Rise softly on our ear.
But hark, that strain!
Do ye not hear it? Solemn, and sweet, and low,
Rising as from some unseen world afar?
Not like that peal which nerves the soldier's arm
And fires his heart; when, o'er the field of battle,
Fell carnage calls him on to deeds of blood;
But solemn, sweet, and low.
And now again
It swells, and louder swells upon the ear;
And seems the widow's and the orphan's wail,
Charged full with sadness.
While the measured tramp
Of stalwart manhood, ranged in lengthened line,
Sounds deep and hollow as they onward come,
And, rank on rank, close in around the bier
Of one, who was, but now, their fellow soldier.
The holy words of burial, clear and strong
From priestly lips, come like the clarion's voice
At dawn of battle; reminding mortal man
Of life's great conflict, and its final close;
Of victory or defeat eternal won.
A moment—and the quick, sharp musket rattle
Breaks on the stillness of the sacred day;
The hollow mockery of the dead!
—As tho'
This senseless clod could hear—*hear* and be *soothed*
By that dead sound which drowns the dying cry,
Of souls infuriate—when with curses deep
Hand clenched with hand, and teeth with fury knashing,
Man meets his brother; and with murderous heart
Plunges him down to the dark depths of hell.

No! soldier—this dull echo of the sound
Of charging squadrons, the fierce shout, the cry,
The groan, the loud wild clang of conflict stern
Can never reach *thine* ear! It soothes thee not!
If thou art lost, it cannot quench the flame!
If saved, it is Fame's bubble burst o'er thee
Ere she consigns thee to oblivion.
—Thou—
Though counted common clay—bor'st in thy bosom
Perchance a brighter, stronger fire of love
For thy dear country, than the titled ones
Who bid thee to the fight; *yet, thou art nameless!*
Thy bones, 'tis true bleach not along the chapparell;
For GOD had brought thee safe through the red field,
Of many a conflict—brought thee home—('tis strange!
Mysterious!) brought thee *home* to die.
Thy name—
I know it not, nor does thy country know!
'Tis on that roll which one day shall be called,
When th' archangel's trump, shall waken thee
To take thy crown; or death's eternal chain.
Fitting that one unknown should sing thy dirge:

I.

Soldier! thy task is done!
Here rest from sorrow;
No sound of war shall wake
Thee on the morrow.

II.

Ended the dark fierce strife
Of Life's dread battle;
Silent the cannon's roar,
The musket's rattle.

III.

The bugle's rousing peal,
That woke thy slumbers,
No more shall pierce thine ear
With its shrill numbers.

IV.

No pile o'er thee upreared
Shall tell thy story!
What recks thy country of
A private's glory?

V.

What recks it *thee* how Fame
Gilds thy life's pages;
If thou hast won the crown
Of endless ages?

VI.

Soldier! GOD rest thee here!
The heaving *billow*
Thy requiem aye shall sing
Around thy pillow.

VII.

And when the last great trump
To judgment call thee,
May not the dread alarm
Soldier—appal thee.

October 5th, 1847.

For the Churchman.

Mr. Editor,—The efforts of the Church for diffusing the principles and precepts of Christian piety and morality, are in no way more seriously injured than by the inconsistencies of Christians. In a late number of the Protestant Churchman, that paper aided in circulating the abominable falsehood that the Bishop of New York was convicted by the unanimous vote of the Court. This was pointed out in your paper; and yet the Protestant Churchman has neither retracted nor apologized for the wicked act. Its nominal editor, while setting such an example to the sinners of his parish, could probably preach to them with great apparent sincerity from Proverbs xxviii. 13. "He that covereth his sins shall not prosper: but whoso confesseth and forsaketh them shall have mercy."

In the same paper of October 16th, a correspondent, "An Episcopalian," in the furiousness of his anger, hesitates not to vent the blasphemous implication that our Lord Jesus Christ did wrong in continuing the repentant Peter in the apostleship.

How long shall "party and personal vengeance" be allowed thus to set piety and morality at defiance? A. A.

For the Churchman.

Mr. Editor,—A friend has handed me the following extract from the New York American of January 4th, 1845. It furnishes an opinion relative to the sentence upon the Bishop of this Diocese from a gentleman whom the Protestant Churchman has lately quoted, as entitled to some consideration in Church matters, Charles King, Esq., now one of the editors of the Courier and Enquirer.

> "The sentence of suspension pronounced in this case, seems to us objectionable in every point of view.
>
> "Suspension divests not the offender of his spiritual character, nor of his rights, privileges, or perquisites, as a Bishop. It only interdicts, while it lasts, the exercise of those rights and functions, leaving him his salary and title; when removed, the Bishop is in all things reinstated. If made perpetual indeed, suspension would virtually amount to deposition, so far as the exercise of any Episcopal function is concerned: but then, what becomes of the Diocese?
>
> "There can be no Bishop elected, because there is no vacancy; and there can be no Assistant Bishop, because the canon only allows of the election of an assistant in two specific cases 'of old age, or other permanent cause of infirmity;' neither of which, in the sense of the canon, exists here.
>
> "Suspension, therefore, which is an inadequate punishment for the offence, is a very real punishment upon the diocese, which has in no wise offended.
>
> "In regard then to the nature of the offence, and to the just claims of the Diocese, it seems undeniable that suspension for a term is at once inadequate and inconvenient; and that indefinite suspension, which would leave to the offender both the title and emoluments of the Episcopate, would inflict a very great wrong upon the Diocese; while it as effectually incapacitated the Bishop from any Episcopal acts, except receiving his salary, as deposition."

For the Churchman.

IS THE SENTENCE VOID?

A SYLLOGISM

1. "We do not hesitate to say, that unless, on the sentence of suspension being pronounced, this Diocese was *at liberty immediately to elect another Bishop*, the sentence was *void*. There are two alternatives in this case, and no middle ground. Either the Diocese is *vacant*, or the sentence was an *invasion of the fundamental rights of the Church*, a *violation of the inherent power of the Diocese to have a Bishop*. The sentence was *void*, as *beyond the power of any court* to suspend a diocese by suspending its Bishop; or it suspended the Bishop only, and left the diocese to pass free from let or hindrance, to supply the void by electing another Bishop."—*Protestant Churchman.*

2. "There can be no Bishop elected, because *there is no vacancy*."—*Mr. Charles King, now of the Courier and Enquirer,*

3. Ergo, &c. &c.

For his indubitable proposition that "*there is no vacancy*" in the Diocese of New York, Mr. King has the very respectable authority of the committee of fourteen from the two houses of the present General Convention, to whom were referred the New York resolutions, and Bishop Onderdonk's memorial. We have had, for fifteen years, canonical provision for "the performance of Episcopal duties in *vacant dioceses*." The committee, by the third of their proposed canons, have unanimously avowed the opinion that such provision is not applicable to the present situation of the Diocese of New York: in other words, that that is not *a vacant Diocese*.[*]

Allow me, Mr. Editor, to propose a question to the gentleman who furnished "Rev. J. W. Brown, M. A.," with his leading editorial in the Protestant Churchman of October 9th. According to that quasi-editor, if Mr. King and the committee of fourteen[†] are right, this diocese has suffered, is now suffering, under the authority of the General Convention, "an *invasion of the fundamental rights of the Church, a violation of the inherent power of the Diocese to have a Bishop*," and the manifold and destructive privations, evils, and perplexities, of a sentence "*beyond the power of any court.*" The question which I would respectfully propose to that gentleman (and I put it to him as an American Citizen and a Protestant) is, *What, in such case, is the duty of the Diocese?* T. E.

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[*] This article was intended for last week's Churchman, but was excluded on account of the space required for the report of the Convention. Since it was prepared, the House of Bishops have passed this third canon, thereby setting their seal also to the righteous judgment that the Diocese is not vacant. Perhaps by the time this reaches the reader's eye, the same may be said of the whole Convention. If the Protestant Churchman is honest and consistent in its professed respect for the decisions of the Bishops, it must now take the ground that the sentence is null and void.

[†] I may now add, the House of Bishops.

DOMESTIC INTELLIGENCE.

The Rev. W. H. Woodward, having resigned the Rectorship of St. Paul's and St. Peter's Churches, Great Valley, and accepted a call from the Vestry of Zion Church, Pontiac, Michigan, requests that all communications may be directed to him—Pontiac, Oakland county, Michigan.

Rev. Charles Fox having returned from Europe, requests all letters and papers intended for him to be directed to Grosse Ile, Trenton, Wayne county, Mich.

The Rev. Seth Davis has resigned the rectorship of Zion Church, Rome, and removed to the city of Buffalo, to which place he requests his letters and papers to be directed.

The Rev. Samuel R. Gordon having accepted an invitation to the rectorship of St. Paul's parish, Kent county, Maryland, and removed there, desires that letters and papers intended for him be directed to Chestertown, Maryland.

☞ The Rev. W. G. H. Jones, whose resignation of Frederick parish, Clarke county, we announced last week, we have since learned, will *not* take charge of the Church in Memphis, Tenn.—*Southern Churchman.*

The corporation of St. John's Church, West Hoboken, N. J., has called the Rev. Edward F. Edwards to the Rectorship of the parish.

The Rev. gentleman in addition to his duties as Rector of the church, accepts the appointment of "Rector of St. John's School," tendered to him by the same body as trustees.

The corporation have reason to congratulate themselves at the result thus far of their persevering efforts to establish the Church in that village.

The Rev. John Jas. Hunt having removed from Athens, Clark county, Ga., requests all letters and papers to be addressed for him to Marietta, Cobb co., Ga.

The Rev. W. Y. Rooker, of Winchester, Virginia, has received and accepted an invitation to become the Assistant of the Rev. Dr. Tyng, Rector of St. George's Church, New York. All letters and papers intended for him, must be addressed to New York city.

The Rev. Minot M. Wells has become the minister of Trinity Church, Fairfield, Herkimer co.

The Rev. J. W. McCullough, D.D., having accepted an unanimous call to the Rectorship of St. John's Church, Lafayette, Indiana, requests that all papers and letters for him may be directed to that place.

The Rev. C. A. Foster has resigned the charge of St. James's Church, Muncy, Pa., and accepted that of St. Paul's Church, Evansville, Indiana, to which he has been invited.

NEW YORK.—The Journal of our late Convention, the 63d, has been published, and very handsomely too, as well as punctually, by Henry M. Onderdonk, at No 10 John street, in a pamphlet of 92 pages. From the reports of the Bishops of North Carolina, and Western New York, appended to that of the Standing Committee, as well as from the last mentioned itself, we obtain the following information on the state of the Diocese: There have been confirmed 1051, ordained 6 Priests and 15 Deacons, churches consecrated 9, and corner-stones laid 3. The number of candidates for orders newly received is 22, the whole number of clergy 239, of whom 176 are entitled to seats in the Convention, the whole number of churches and chapels in the Diocese 189, of which 8 are not in union with the Convention. To the Episcopal Fund 38 churches have contributed $189 92, 77 churches $856 to the Diocesan Fund, 58 churches $450 to the Education Fund, 97 churches $2,317 to the Missionary Fund, and 99 churches 2,259 to the Fund for Aged and Infirm Clergy. The Report of the City Mission Society which was not read before the Convention "through pressure of time," has been, with the approbation of the President of the Convention, inserted in an Appendix.

The new Church of the Annunciation in this city, situated on 14th street, between 6th and 7th Avenues, was opened for Divine Service on Sunday, the 17th inst. Between 30 and 40 of the clergy were present, of whom 11 habited in surplices were within the rails. The Bishop of South Carolina, the Rector of the church, and the Rev. Dr. Berrian, occupied the sedilia, the rest were seated in the stalls. Morning Prayer was said by Rev. Messrs. Bostwick and Walton, the first Lesson was read by Rev. Mr. Hawley, and the second by the Rev. Mr. Hanson. The Rector said the Ante-communion, (Dr. Berrian reading the Epistle,) and preached from Exodus xx. 24. The Psalms were announced by Mr. Preston, Assistant Minister of the parish. The Holy Eucharist was celebrated by the Bishop of South Carolina, and the Communion given to a large number of laity by the Bishop, assisted by Drs. Berrian, Seabury, and Walton. The services ended at 2, P. M.

The musical portion of the services consisted of the *Venite*, the *Te Deum* and *Jubilate*, (Boyce's in it,) part of the 19th selection, the 79th, the sentences in the Offertory, the *Sanctus*, (Childs in E Flat,) and the *Gloria in Excelsis*.

Evening Prayer was said by the Rev. Dr. Jarvis, the Rev. Messrs. Walton and Hanson reading the Lessons, after the second of which, the Sacrament of Baptism was administered. The sermon was preached by the Bishop of Western New York. Other clergy present were the Rector and Assistant Minister, the Rev. A. S. Leonard, W. R. Gries of North Carolina, and Rev. J. C. Tracy of Maryland.

On the same day in St. Luke's Church, the Bishop of North Carolina admitted to Deacon's orders Mr. C. A. Maison. The sermon was preached by the Rev. S. F. Jarvis, D. D., of Connecticut, and the Rector of the church, Dr. Forbes, presented the candidate.

MISSOURI.—If a Western Bishop were asked what would best contribute to the extension of the Church, he would probably say, an increase of the Ministry—a larger number of those self-denying Clergymen, who are content to endure privations, hardships, everything, if they may but be permitted to bear the cross of their Master as "heralds of His truth," "through all our desert west."

It seems now to be very manifest that the great west, where this want is most felt, will not be adequately supplied with Ministers until they are sought out from among their own people, and prepared at Institutions of their own founding, located in their midst.

Wisdom has been learned from the experience of the past, and a different plan, much more simple, and less expensive, is now pursued in the establishment of schools for the education of boys intended to be prepared for the Ministry. They assume at once a Missionary character, and while they provide for the instruction of such of their Students as believe themselves to be called to the sacred office of the Ministry, in the theological studies necessary to qualify them rightly to fulfil its requirements, they at the same time supply from their own household Missionaries to the people within the reach and influence of their Mission. The extent of their labors may be small in the beginning, but they strengthen and expand.

Such are Valle Crucis in North Carolina, and Nashotah in Wisconsin: their services, past, present, and prospective, and their importance to the Church are inestimable, but they are not appreciated, or they would not be allowed to linger on through trials and difficulties which would subdue any heart not constrained by the "love of Christ."

We rejoice, then, having in mind the increased influence and extension of the Church, to be derived through them, whenever an effort is made to establish such Missions, and are glad of an opportunity to present their claims to the consideration and aid of Churchmen. Among others we commend that named at the head of this article, as presenting, from its locality and the destitution of the Church in those places which will be more immediately benefitted by it, a peculiar and strong appeal to their Christian liberality.

Soon after the Bishop of Missouri, the Rt. Rev. Cicero S. Hawks, D. D., became its Diocesan, he made known to some of his people his desire to provide the means to relieve, in part, the spiritual destitution of the West, by the establishment of a school for the education of poor boys, and rearing a Ministry at home. As a commencement of such a foundation, and the first gift towards it, Mr. George R. Clark, of St. Louis, son of the late Governor Clark, presented 333 acres of land in Montgomery Co., Missouri, about 150 miles from St. Louis.

This is a noble gift, but the location of the land not being considered the most eligible for the school, the Bishop introduced the subject to the Convention of Missouri, and informed them that he should be glad to have a site for it elsewhere. On this intimation he was invited by the people of Palmyra to visit that place and explain to them the plan of his Mission. He did so, and the result was, that they gave to the Mission sixty acres of land with a house upon it, adjoining the town, as a site for the contemplated establishment. This is in Marion county, about 150 miles from St. Louis, six miles back from the Mississippi. The situation is said to be beautiful, and well suited for the purpose.

The Bishop very appropriately became the purchaser, by the aid of some friends, of the valuable Library of Kemper College, which was sold as part of the assets of that institution, and which he designs for the Clark Mission.

He has thus 333 acres of land, the gift of Mr. Clark; 60 acres of land and a house upon it, given by the people of Palmyra; the Library of Kemper College, and 80 acres of land in Michigan, which were given to him in Hartford, Conn., by a gentleman who was present on a recent public occasion, when the Bishop made a statement of his plans and prospects.

This is certainly a good beginning, and an indication we trust of future favor to be shown to the cause.

The Bishop hopes to open the school at the ensuing Advent, and has the expectation of commencing with about 30 boys. A school-room is needed at once, and a Chapel, which will also serve as a Village Church. For these purposes he requires aid. The object must commend itself to every friend of the Church.

We do not know that we can add any thing which will enforce its claims. We heartily wish it may receive the assistance we think it eminently merits; it will then be speedily and permanently established.

By the request of the Bishop, we shall be very glad to act as his receiving Agent on behalf of the "Governor Clark Mission," and will take charge of, and forward to him, any donations of money, books, or other suitable articles, which may be sent to our office, No. 89 South 5th street.

NEW PUBLICATIONS.

AN ESSAY *on the Life and Writings of* EDMUND SPENSER, *with a special exposition of The Fairy Queen. By John S. Hart, A. M., Principal of the Philadelphia High School.* Wiley & Putnam, 8vo. pp. 514.

The author of this essay in his preface aptly compares The Fairy Queen to a "half-decayed and unfrequented Cathedral of the olden time," and his object is "to remove something of the repulsive gloom that has gathered around this venerable pile, to brush away a portion of the dust and cobwebs, and to throw once more the cheerful light of heaven upon its untold splendors—in short, to make this famous shrine, if possible, once more a favorite resort, not merely for the lovers of the antique and the curious, but for all the genuine votaries of truth and goodness." Such an undertaking is one in which we sympathize as warmly as in the labors of those who actnally restore the material structures to which he compares his favorite author's great poem, and nothing but the depraved taste of a Hanoverian age could ever have polluted or abandoned those noblest products of English imagination, the mediæval churches, and the Elizabethian Fairy Queen.

Mr. Hart's volume is divided into two parts, the former contains some account of Spenser's life and miscellaneous writings, the latter an exposition of the Fairy Queen, being a statement of its plan and progress, enriched with copious extracts, and furnished with an abundance of explanatory comment. In the former part we have to find fault with Mr. Hart for a piece of prudery that we cannot understand, viz., his omission of "Britain's Ida" in the list of minor poems—the name is not even mentioned. There was no necessity for his quoting from it to be sure, but at least a mention of it by title would have been allowable, and would have made the list complete, especially as poems of far inferior merit have no little space allotted them. This however is a faint blemish. The biographical sketch is quite succinct, but sufficient, and a necessary introduction to what follows. The exposition of The Fairy Queen occupies four-fifths of the volume, and is so well-stocked with explanations of allegorical and historical difficulties, so happily illustrative of the spirit of the author, and so well-conceived in plan, that it cannot fail of alluring any person of taste to make the acquaintance of the entire work. We hope that it will lead many to do so, for in all imaginative literature there is nothing so effectually conducive to the advancement of Christian nobility, united with gentleness of character, as The Fairy Queen of Spenser.

The volume we must not omit to add is in externals worthy of its contents. It ranks among the *facile principes* of the American press, and reflects as much credit on its publishers as his own good taste and abilities do on the author.

Wiley and Putnam have also published on a large sheet "The Bottle," a series of eight plates, by George Cruikshank. Price 2s.

THE POETS OF RELIGION. *A Poem delivered before the House of Convocation of Trinity College, in Christ Church, Hartford, August 4th, 1847. By the Rev. George Burgess, D.D., Rector of Christ Church.* Hartford: Case, Tiffany & Burnham. 8vo. pp. 27.

On the whole one reads this poem with interest. The conception is a good one, and many of the stanzas are justly applicable to their subjects, not destitute either of felicitous expressions. Take for instance Dante & Tasso.

"Lo, from the screen emerged to clearer light,
Florence, the land where freedom blooms or bleeds!
And exiled Dante dares the gates of night,
Mounts the dread car that owns no mortal steeds;
Scowls o'er the abyss, its direful secret reads;
Then, crag by crag, ascends the toilsome way:
On! On! 'tis thine own Beatrice that leads!
Soon shalt thou tread the heights of upper day,
And heaven and hell shall gleam from one wild, wondrous lay.

"As softly rich as when a tender flute
Melodious steals across some orange grove,
While eve descends, and stars seem listening mute,
Of Godfrey's triumph and Erminia's love
Was Tasso's tale; then far it swept above;
And dazzling armies hung in Salem's sky:
Th' enthusiast lyre was crushed; but like the dove,
Sweet peace came answering to his contrite cry,
And in his convent cell he died as breezes die."

On the other hand many portions are harshly, and many obscurely expressed, nor is it an obscurity resulting from depth of thought, but from poverty of language.

As an instance of a different class of objections to which some may think the poet open, take the XIIth stanza.

"In ancient lands where springs the day to birth,
I saw a chosen shepherd as he sang,
'In the beginning how the heavens and earth
Rose out of chaos;' then with timbrel's clang
On the seashore the song of freedom rang;
Then fought the stars from heaven with Barak's thrust;
Then, pierced by wounded friendship's sternest pang,
The patient patriarch, seated in the dust,
Sang to the Arab winds, his sad, victorious trust."

CHRISTIAN BALLADS. *Revised Edition, with additional ballads.* Hartford: Henry S. Parsons. New York: D. Appleton & Co. 12mo. pp. 192.

We do not suppose that there is a Churchman in the land to whom any praise of this volume from us would not seem superfluous, so long and so widely have Mr. Coxe's poems been admired, not only here, but in England. The present edition then needs only to have its superiority to the former pointed out. This consists partly in its greater external beauty, but mainly in the additional gems which it contains. Among those are "Scotland," with the additional significant title "The Orange Sacrilege,"—a noble ode, "Seabury's Mitre," "Rustic Churches, St. Gabriel's, Windsor, Connecticut," "Trinity, New Church," "The Spire-Cross," "Oratories," "Wayside Homes," "Little Woodmen"—a "Dreamland" Church, "The Curfew," "Nashotah," "Daily Service," "Christening," "The Calendar," "The Soul Dirge," and "The Church's Daughter." The new ballads it will be seen are many, and we will only say further, equally worthy with the old ones of a place in every good Churchman's memory.

POEMS. *By Henry Howard Brownell.* D. Appleton & Co. 12mo. pp. 208.

There is enough in this modest volume to show that its author is a man of cultivated mind and versatile fancy, although his poetic fire is none of the intensest. His translations are the best part of the book. Horace's Archytas ode is a successful version, and the *Dies Irae*, although not exhibiting the double rhymes of the original, is by no means the worst we have seen.

APPLETON'S RAIL ROAD AND STEAMBOAT COMPANION. *By W. Williams.* D. Appleton & Co. pp. 235.

This is emphatically a "traveller's guide." It is limited however to the Northern and Middle States, although affording some information as to more distant routes. The minuteness of its details, the number and correctness of its maps and engravings, and the accuracy of its statistics, render it superior to any work of the kind. With this companion one visiting the north for the first time will hardly feel himself a stranger.

THE POETIC LACON, OR APHORISMS FROM THE POETS. *By Ben Cassedy.* D. Appleton & Co. pp. 189.

A miniature volume, whose value in our eyes is commensurate with its size.

THE HAPPINESS OF THE BLESSED *considered as to the particulars of their state, their recognition of each other in that state, and its difference of degrees. To which are added Musings on the Church and her Services. By Richard Mant, D.D., Lord Bishop of Down and Connor.* Stanford & Swords, 12mo. pp. 225.

We would have this volume find its way into every Christian family where there is one person that can read. If scriptural truth and warm devotion can commend a book, this will not be neglected.

Bishop Mant as a poet is not duly appreciated. Whether this arises from a distaste for the sonnet, or from an idea that he has merely imitated Wordsworth, it is equally a mistake. His sonnets are generally carefully constructed, and seldom lacking in elevation of sentiment. They sometimes, it is true, are not so well compacted and pointed as the form requires, but this is owing to the didactic tone which many of their subjects necessitate. Above all they are full of the genuine Anglican feeling which Wordsworth often does not display. The reader of the "Musings" will, we think, feel that this series is more animated by a Church spirit than Wordsworth's.

THE VAST ARMY: *an Allegory. By the Rev. Edward Monro, Author of "The Dark River," &c.* Stanford & Swords. 18mo. pp. 145.

This is a book for children which we unhesitatingly commend. The kernel is of fine gold, the rind of chased silver, or, not to talk allegorically of an allegory, the esoteric teaching is the pure truth of Christian morality, and the outward form undeniably the work of an artist. Mr. Monro is deeply imbued with the spirit of the great master, Fouque. He can desire, as a writer, no higher praise.

THE SEVENTH COMMANDMENT *explained in two sermons delivered in the Episcopal Church, Edisto, S. C. By Rev. Charles E. Leverett.* Charleston: D. W. Harrison. 18mo. pp. 52.

Stanford & Swords have these sermons, which are vigorously and not obscurely expressed.

We have received the following pamphlets:

Brownson's Review for October.

"The Duty and Benefit of a system of Weekly Church Offerings: A sermon by the Rector of St. Paul's, Sing Sing, N. Y."

"Powers's Greek Slave," a selection of critiques on this statue.

The United States Catholic Magazine, The Union Magazine, and The Columbian for October.

JUST PUBLISHED.

1. Mercy to Babes: A Plea for the Christian Baptism of Infants, addressed to those who doubt and those who deny the validity of that practice. By the Rev. Mr. Adams. 12mo. 63 cts.

2. Happiness of the Blessed: by the Rt. Rev. Bishop Mant, Bishop of Down and Connor. 12mo. 75 cts.

3. Horæ Liturgicæ: Containing, I. Liturgical Discrepancy; its extent, evil, and remedy; in two letters to the clergy of his Diocese. II. Liturgical Harmony—its obligations, means, and security against Error, whether Popish or Puritanical—in a Charge to candidates for Holy Orders. By the Rt. Rev. Richard Mant, Bishop of Down, Connor, and Dromore. Edited with Notes and Additions, to adopt it to use in the American Church, by the Rev. W. D Wilson, A. M. 12mo. 50 cts.

4. The Vast Army: An Allegory. By the Rev. Edward Monro, Author of the Dark River, &c. 12mo. 31 cts.

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September 5—yly. WILLIAM ASHKETTLE.

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October 9.

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REFERENCES.

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MEETING OF THE GENERAL CONVENTION, FOR 1847.

THIRTEENTH DAY'S SESSION.—Continued.

Rev. Mr. Gallagher said it seemed to him safe to lean to the side of mercy, so far as could be done with due regard to the interests of the church. If a majority of the bishops were in favor of mercy, he thought the church should acquiesce. The bishops might possibly find after giving sentence that they had been mistaken; and the effect of such a provision, under the canon proposed, would be hard. It required a majority to pass sentence, and if a minority of the whole number were to reverse a sentence passed by a majority, the case would excite great feeling in the church. The power of pardon had always been very strictly guarded, and should be in such a case as this. Unless some restrictions were put upon it, he should feel constrained to vote against the proposition.

Mr. Wharton, of Pa., thought we should bear in mind that *seven* constituted, according to the canons, a quorum of the Court of Bishops. A majority of *seven* may therefore sentence a brother bishop. Under this canon it is proposed, that a majority *of all* the bishops shall be required to reverse a sentence. This he thought hard; and should therefore vote against the canon. A majority of those present—of those who, when summoned, choose to attend—ought to have power to act upon the subject. It has been said that a court for remitting sentence, may be held in winter, when the attendance is very small. So may a court for pronouncing sentence. And it is generally fair in both cases. The rule will work equally as well in either contingency. Besides it should be considered that when the canon provides that a majority of the whole is necessary to remit of sentence, those who are opposed to remission, may stay at home; and thus escaping considerations which might have weight with them, if they were present to hear them. Every claim of justice is answered by giving notice to all; and though it is in our power to require a majority of two-thirds or three fourths, to remit a sentence, he thought it would not be best to do so. He could see no distinction in regard to this point, between pronouncing a sentence and remitting a sentence. A judge convicted of bribery, it is said, may be pardoned but not restored. But the Canon proposed abandons this principle, because it says that a majority may restore the officer. And the expediency would in the end decide it. He thought the question of remission would excite quite as much interest as that of pronouncing sentence, and that as full a court would attend in the one case as in the other.

Mr. Conyngham thought as we were about to enact laws upon the subject of pronouncing and remitting a sentence, we should attend to some distinctions between them.

The Canon of 1844, providing for the trial of a Bishop, is guarded in every possible way, to protect the rights, both of the accused and of the accusers. Special provision is made for holding the court, for defending the accused, for taking evidence upon oath, and for taking all the precautions granted in ordinary law tribunals. But in the Canon proposed we simply give to the Bishops the power of restoration,—not by special trials, not with testimony of certain characters—but we give the whole thing into their hands and leave them at full liberty to set at their discretion. There is nothing to prevent one of them from seeing the accused, learning his feelings, inquiring as to the general policy and effect of his restoration in the church. He may look into every question likely to have any effect upon it; all of them are open. All these modes of inquiry may be entered into. The question of sympathy will be presented and it is a fair question for such cases. It must enter into the question of restoration. When therefore we liken this to the original trial, we should see to it that we separate them in regard to their attendant circumstances. We should require something more in the one case than in the other. And this is one reason why, in leaving the whole subject open to the House of Bishops, we should also say that a majority of the whole number, should be required for the remission of the sentence.

Rev. Mr. Gallagher said he desired a more distinct answer to the objection he had stated. By the canon proposed not even a quorum is required to be present; so that *three* or even *two* Bishops may remit a sentence passed by *twenty*.

Rev. Dr. Mead called attention to the canon 53 of 1832 which met the case, by providing that "in all cases in which a canon directs a duty to be performed *by any body consisting of several members*, a majority of the said members, the whole having been duly cited to meet, shall be a quorum."

Rev. Mr. Young made an inquiry, the exact purport of which we did not catch.

Mr. Evans, of Md., replied that the canon was not under consideration.

Mr. Young. Was it proposed to modify the canon, so as to render a majority necessary for conviction.

Mr. Evans. No.

Mr. Young would then be compelled to vote against the canon. It was admitted that remission of the sentence was an act of mercy. He could conceive cases in which it would be an act of justice. Further evidence might be produced, showing that the sentence was not just. This object, surely, was to remove all obstacles from the pathway of justice. But the canon as it now stood, threw obstacles in the way of mercy and justice. Unless modified, he must vote against the proposed amendment.

Mr. Seymour, of Western New York, said he could see that the gentleman from Pennsylvania, was correct in his view. It was for the benefit of the aggrieved party that the canon was framed. In point of fact, when he made his appeal, unless the majority relieved him, they condemned him. It was in fact an unfair tribunal in that case. It did not follow that there was any injustice in the case. It must even be that after trial and sentence, when brought before the higher body, the majority must decide. He apprehended that the trial of a bishop was to be so rare and exciting an occurrence, as to command a full attendance of members of the court. They were now merely giving the condemned an opportunity of repeal. Was there any hardship, then, in the case.

Judge Chambers had hoped that his views would have met with the approbation of the House. First, in regard to the difficulty suggested by the learned gentleman from Pa, it was to be borne in mind that no legislature could meet all possible cases. He had put no extreme case. But suppose a case in which every member of the House of Bishops attended and suppose two-thirds agreed in the sentence. In that case a quorum at least would be necessary to reverse the sentence. They must act for classes of cases They must repose some faith in the proper administration of their duties of individuals selected by the churches on the ground of their fidelity. It was said it was an act of justice to remit a sentence. No doubt it was when due to the party. Well could that body assume the fact that any Bishop would be so forgetful of his own duties as to refuse remission of an unjust sentence and that against one of his own order. They must act in confidence in these affairs He did think, therefore, that the difficulties were more imaginary then real. They had one conviction of a Bishop, God grant they might never have another, and he believed the time was far distant when such an event should occur. Why object to a system because gentlemen thought it was not absolutely perfect. We were willing to support an improvement for extent to which it did go, though it might not be absolutely perfect. He concluded by expressing the hope that all would agree in the adoption of what was confessed to be an improvement.

Mr. McFarland, of Va., said that there was a manifest difference between a sentence pronounced after a trial by tribunal with all the sanctions necessary to attain the truth and prevent falsehood and the dispensation of a pardon. There was evidently no propriety in assimilating the pardoning power and the power of judicial sentence. Undoubtedly the pardoning power should rest in the proper officers of the church, but it should be guarded so as to prevent any disturbance of the harmony and order of the church. Must it not disturb the peace of the church and go far to introduce fatal discussions, if a case should occur in which form should nullify a sentence and restore a degraded member?

Judge Chambers—suspended.

Mr. McFarland—The argument was not affected by the connection. It seemed to him if the power were given to the majority, it would be exercised in a proper way. He had no doubt that in all cases where the welfare of the church and justice demanded it, the majority of the Bishops would be found ready to grant pardon.

Rev. Dr. Wheat of Tennessee, remarked that if a majority of the whole were necessary then in the nature of the case it must be a final decision from which no appeal could arise as in the other case It would carry with it weight and influence.

Rev. Dr. Neufvell observed that the House of Bishops would constitute a court of appeal. But supposing seven persons would be regarded as sufficient to remit the sentence because seven were necessary to inflict it; it might happen that those very seven would constitute the supposed court of appeal. The condemned might meet the very men who pronounced him guilty. Where then was the court of appeal?

Rev. Mr. Trapier suggested that the inclination of human nature to pardon was to be supposed to actuate the House of Bishops in a greater degree than any civil tribunal. They should have in view that *esprit du corps* of the Bishops and provide sufficiently against the amiable weekness which might prompt a pardon when it was not proper.

Here the cries of "question" were renewed.

Mr. Este, of Ohio, said that, as he understood the amendment, it had the view of constituting a court of appeal of a larger number than that which pronounced the judgment, he contended that as to the general wish, even of the gentleman who had opposed the amendment, it would, he thought, be conceded that a majority was desirable, provided it could be obtained without difficulty. The whole matter in dispute was, whether the Court of Bishops, constituted of a lesser number than the majority, could revoke a sentence.

It appeared to him that, from the nature of the case, that there was a necessity that when the decision of the House of Bishops was called in question, a different tribunal was required, than in an ordinary case. It was to be recollected that the tribunal was to be of the same class of men who pronounced the original decision; and it was necessary that this oversight of the decision should be governed by the most solemn considerations of its effects on the church, whatever might be the matter. Could they derive at those objects short of a majority of the House of Bishops? It was desirable that the court should be so constituted, that its decision would give satisfaction to the church.

The question was then taken on the amendment, and it was agreed to.

Mr. Williams proposed an additional section, to the effect, that no bishop, whose sentence should be so remitted, should be placed in charge over a diocese, without their consent.

The President asked if the proposed section was intended to apply to all cases of judicial sentence?

Mr. Williams replied, that it could be modified so as to avoid all difficulty. He would insert the word "suspended," so as to confine the character of the section to cases of suspension. He would suppose a case. Suppose the Bishop of Pennsylvania were restored to his diocese when that diocese did not believe he had the requisite purity of life; or, suppose they restored the Bishop of New York, and the diocese did not wish him, what good could result in sending him to exercise jurisdiction over those unwilling to receive him? If the Bishops had a divine right to restore, of what use was all this debate about special legislation? He had heard a great deal about the thing—"once a bishop always a bishop." But if Judas had not hanged himself, would he still have been an apostle? No. He might have the name, but only the name of an apostle. But they had decided already, that after resignation, the bishop had no longer any jurisdiction. On the other hand, when deposed, it was believed that the bishop should have no authority in the church. He did not mean to say whether he was still to be called a bishop—that was a small matter comparatively. Were they to be told that the bishop must consent, in order to withdraw his power of jurisdiction?

Judge Chambers did not mean to occupy the floor for any length of time. The gentleman who had introduced the proposition was quite correct, when he said this was a "simple" proposition. It was plain and intelligible indeed. Its object was to declare that a suspended bishop ceased to have any jurisdiction. That was the naked proposition. If the House were prepared to adopt it, very well, but he wished them to understand it. But he (Judge C.) did not believe that the House were prepared to adopt it. Had the gentleman reflected upon the consequences of the adoption of such a proposition? the results would not be such as the gentleman had stated. Those consequences were guarded against by the canon. According to the gentleman's own views, there was only a transference of power from the House of Bishops to the individual diocese.

Mr. Williams explained.

Judge Chambers said there was no necessity of this legislation, because there was a canon before them preventing the infliction of such a sentence. But that was intended to apply to a past case. It was to be the judgment—no, not the judgment, but the execution of that House without judgment. He was about to say that the character of the proposition accorded with the gentleman's own view. Could he act so offensively to the House of Bishops as to say, we give you the right to judge, but the diocese of New York must aid you and prevent you from committing any indiscretion.

Mr. Williams—the gentleman had misconceived the proposition.

Judge Chambers was now ready to hear the gentleman's explanation.

Mr. Williams. It did not provide that the opinion of the Diocese should be given before but after the remission.

Judge Chambers supposed a second bishop in a state of suspension. Where did they belong according to the constitution of the church? The gentleman must add to the nomenclature of the church to designate them. The suspended Bishop whose sentence was restored was a restored Bishop and nothing else. He had no idea that a restored Bishop should resume his duties till confidence was restored. But ample provision for that had always been made. They might adopt whatever form they pleased, there must be lodged in some tribunal the privileges of a tribunal of last resort. The proposition of the gentleman changed the decision which they had first made relative to the character of that tribunal of last resort. There was another idea urged by the gentleman; that the power of the Convention was supreme in the regulation of the character of Bishops because they regulated their functions. He could not assent to that. Was it then necessary to consecrate a suspended Bishop again when he was restored. Did it follow that there was no part of that sacred office which human heads could not touch? It was impossible for the government to touch the character and functions of the Bishop aside from their legislation and judicial functions. In conclusion, he repeated that if the question came up—and it was quite proper that it should come up—let it be brought tangibly, palpably, plainly to their notice—did a question of suspension without limits void the jurisdiction of the Bishop?

Mr. Williams replied in support of his amendment.

Mr. Delano, of Ohio, then addressed the House. He contended that suspension from the clerical, and ministerial and episcopal functions was by no means indefinite. It was total, absolute, final. It took away from the condemned party all right to the exercise of the functions that appertained and belonged to the office of a Bishop. What was there indefinite in that? It was total. It rested so long as the individual lived; nay, he would go farther to say that it was eternal. The mere naked office was indeed left. What was that? The mere name of Bishop. That was all. He was utterly bereft of all powers and functions appertaining to the office. What then was there left but a mere man with the name of Bishop? Now it seemed to him that if they would look to the canon authorizing punishment in cases of the trial and conviction of a Bishop, the sentence might be admonition, suspension, or deposition. It might be said that the sentence would remain in full force till a tribunal of equal power chose to remit it. It might be made conditional, and in such a case he (Mr. D.) did not claim that jurisdiction would be voided. But it seemed to him that jurisdiction demanded ministerial and episcopal functions. How could an individual have jurisdiction as a minister when he had none of the functions or powers of a minister? He admitted that a Bishop might have functions without a jurisdiction. He might be a Bishop without a see. But when stripped of all that made him a Bishop, he (Mr. D.) could not concieve how he could have jurisdiction. Perhaps it might have the power of those who were able to divide the north-east and the south-east side of a hair to solve that difficulty. He did not wish to detain the house, and he would not amplify upon that branch of his argument.

In regard to the propriety of any legislation on the subject, he doubted it. He had not the honor of being a very old churchman. He wished that he had. If he knew his own heart, however, he desired the welfare of that church—the whole church, vast as it now was in its extent, and destined to be still more widely extended, when it should cover all that belonged to America. He was at all times prepared to lay aside all minor differences, and to stand with his brethren in general, on the great platform of the church. However they might differ about small matters, they could all agree there. If correctly informed, the church had now existed for sixty years. [A member—Fifty-nine years.] During all that time it had grown and prospered. Let it go on in prosperity, growing with the extension of their territorial dominion, until it becomes indeed the universal church. There was no necessity for the abrogation of the canon on this subject. He prayed gentlemen before they proceed to the enactment of a new law, the full scope and influence of which were beyond the power of human foresight, to ponder well on what they were about to do. In private affairs, it was a good maxim—"If in doubt do nothing." In ecclesiastical affairs, the soundness of the adage was equally manifest. No one doubted that the convention had the power of abrogating a sentence. That body was the supreme legislative ecclesiastical tribunal. Was there any man who could look calm and dispassionately on that whole question, and entertain the opinion that it was best to remove that power from the body where it now rested? It had always been safely retained there, and he prayed God that it might not be taken away, for he sincerely dreaded the consequences of its removal. Why remove that power from the convention to the House of Bishops, acting concurrently as they did? In the convention the whole church was represented. Where was the place where public sentiment, with respect to the sentence, was best reflected? Why then transfer the place of deposit of the pardoning power? They had had analogies presented. A reference had been made to the exercise of the pardoning power by the Executive. Why was it so? In civil legislation the punishment inflicted, was physical punishment. Here it was moral—spiritual in its nature. It might happen in civil legislation, that the degree of punishment prescribed was too hard in ordinary cases, and the Executive, in such instances, might very properly remit the sentence after the criminal had suffered such a degree of punishment as was commensurate with his offence. After a felon had undergone a certain portion of punishment, he might be pardoned, but in that case he did not return to society and regain, if he could, his reputation.—In the case before them the punishment was moral in its nature. He (Mr. D.) was unwilling that any remission of the sentence should be made, except by the General Convention. It would be extremely dangerous to allow a suspended bishop to come into his diocese with a large minority opposed to him.—There could be no prospect of his usefulness in such a case. One half of the diocese would receive him with open doors. The other half would close the doors against him, and thus disorder and dissension prevail. He was, therefore, opposed to this canon, and would be to all canons except under the exhibition of the strongest necessity. He hoped that the convention would observe the homely adage, and "let well enough alone."

Mr. Rives, of Virginia, then rose and said that he had sought the attention of the House, because the gentleman (Judge Chambers) desired the question to come before them in a tangible shape, namely, the effect of the sentence of indefinite suspension pronounced upon the Bishop of New York, both as regarded his office and his jurisdiction. It was his (Mr. Rives') firm belief that they should never get along with any general legislation in regard to the parties involved in that case till they had disposed of the case itself. This was his resolute conviction, and he thought it was sufficiently sustained by the course already taken in the House. The case of the diocese of New York was uppermost in the minds of all, and whenever they were called upon to decide on any proposition the enquiry was—What was to be the effect of that proposition in the case now awaiting the decision of that House? It was under the influence of that firm conviction that he had intimated yesterday that when the House should have disposed of that canon, he should consider in concurrence with the worthy gentleman from Western New York, that the original question had recurred on the adoption of the report, and that he (Mr. R.) had then a proposition to submit.

He understood that in his temporary absence from the House, his proposition had been read by his worthy colleague, (Mr. Williams.) In his (Mr. R.'s) opinion, it presented the whole question—the naked question of the effect of this sentence on the Bishop of New York, both on his office and his jurisdiction, and as a consequence how far it was competent for the General Convention to provide for the election of a new Bishop. He believed that that was the question they must meet. He was perfectly satisfied that it was utterly impossible to evade that question and preserve peace and harmony. It came up before them whatever matter was under consideration. It was uppermost in the minds of members and the public, and as he thought he was not going too far when he said it was the great business to be settled by the present General Convention of the Episcopal Church of the U. S. Now if that was the great business of the Convention—why not meet it at once? Why all this by-play? He believed that when they had once disposed of this case as he proposed to dispose of it, they could unite the action of the body in such general legislation as might be deemed expedient and necessary. But so long as the particular case of of the diocese of New-York remained undisposed of, so long would the minds of gentlemen be swayed by considerations as to the effect of the proposition before them on that case. His firm belief therefore was that as it was absolutely impossible to evade this question, it ought to be met at once and now. He most sincerely hoped that it would be met in a calm, sober, deliberate spirit, without the manifestation of any undue excitement in any quarter. They should meet it in the spirit proper for members of that body and professing christians, seeking only the welfare of the church. If met in that spirit he anticipated a result highly favorable to the harmony of the church, and the removal of a fruitful source of difference of opinion and agitation. The case demanded radical treatment. Publications would not mature the harmony of the church in regard to this question.

If then it were in accordance with the views of the House, he would move to lay on the table the canon now before the House, in order to meet the question boldly and at once. His proposition met the case, and was intended to be responsive to the call of the Diocese of New York. That Diocese had appealed to that body for relief, and insisting that the interests of the church demanded that that Diocese should be relieved from its present anomalous condition. That was the subject matter which had been referred to this Convention.

They had reported no measures but such as, he must be permitted to say, fell entirely short of the relief demanded. He proposed, therefore, in the resolution which he had drawn to meet that call for them made by the Diocese of New York and to provide for their relief, thereby settling all the agitating questions which had so long occupied the public mind in connection with this case.

His proposition was the following:

"*Resolved*. That justice to the Diocese of New York, as well as a proper regard for the general interests and welfare of the Church, requires that suitable provision should be made for the election of a new Bishop, with full episcopal powers, in any diocese where a sentence of suspension without limitation of time, shall have been imposed upon the former diocesan."

He had no disposition in the world to disturb the action of the House; but if it was its pleasure so to do, he should move that the canon be laid on the table, in order that the proposition just submitted be taken up.

Judge Chambers submitted the following proposition to be laid upon the table:

"*Resolved*, As the judgment of this House, that a sentence of suspension from the exercise of episcopal and ministerial functions does not void jurisdiction to the full exercise of which the suspended Bishop will be necessarily restored, by a general remission of the sentence by the competent authority."

Some conversation ensued as to the order.

Mr. Rives then moved to lay the canon on the table, with the view of taking up the general proposition.

Mr. Ingersoll, of Pa., then addressed the House, having had the floor, and the gentleman from Virginia withdrawing his motion in order to allow him to exercise his privilege. The learned gentleman then said that he concurred in the necessity of meeting the question. As to the views presented by the gentleman from Ohio, (Mr. Delano,) it was well known that there was a wide difference of opinion with regard to the subject, entertained, by different portions of the Diocese of New York, and by different portions of the American church. His friend from Ohio had suggested that the sentence of suspension was definite—that it prostrated—that it degraded the subject of it. He did (Mr. I.) not believe that such a view was sustained by the constitutional canons of the church. He was not at all disposed to quarrel with the judgment to which the intelligent mind of the gentleman from Ohio had arrived; nor to question, in any degree, the utility of offering his suggestions at that time and place. It all appeared to him (Mr. I.) perfectly proper, and he trusted that it might prove exceedingly useful. But neither his honorable friend from Ohio nor himself, nor what was the same thing there, his honorable friend from Virginia, (Mr. Rives) could by their judgment or expression of opinion lead to inevitable results in that Convention. They knew that there were conflicting opinions and it was as well to take them up in that particular point as any other. He referred that gentleman to the report of the standing committee, or sub-committee of the standing committee of the Diocese of New York, made some time after the sentence of suspension was passed, in which it would be seen that in strong terms, in fine language, logically communicated, well carried out, the members of that committee composed of learned and able lawyers and clergymen, avowed their conviction that so far from a sentence of suspension being a sentence of deprivation, it was utterly void and of no effect whatever. Now he (Mr. I.) did not intend to decide or to attempt a decision of that point. *Non nobis componere lites—non opus est nostro.* But his objection to the canon was that it neither settles that question nor does it meet even in part the call of the Diocese of New York. The Diocese of New York came forward and in plaintive tones, as expressed by the reverend gentleman from this particular part of the diocese on the first or second day of the meeting of the Convention, intimated their strong desire that relief should be afforded them by that Convention. The honorable gentleman from Virginia had now laid on their table a resolution, or a section or a portion of a section of a canon, that left open a vast field of action, of thought, of opinion, of clerical fidelity, on which he did not care to pronounce any sort of opinion at that moment—but to which they ought to respond with at least the same care and earnestness that they responded to the other portion as proposed by the gentlemen from Virginia.

He did not express any opinion either one way or the other, but he contended that a response should be made not only to the party who held the views expressed by the gentleman from Ohio, but also to the Bishop himself and those of the Diocese who entertained views opposed to those presented by the gentleman from Ohio. They had before them an appeal from the Bishop himself, couched in terms not to be disregarded. It was firm yet respectful, denunciatory of the sentence yet not derogatary to the character of that body or of the House of Bishops that pronounced the sentence. They could not disregard such an appeal any more than they could disregard the appeal of the Diocese at large. What relief was extended in the proposition of the gentleman from Va., either to the Bishop or that portion of the Diocese that believe the sentence to be a nullity? Was not that portion of the diocese equally entitled to relief, as well as the other? Before the discussion closed, perhaps, he should submit these suggestions in a somewhat more formal manner.

He repeated that he himself gave no opinion whatever in the matter, but he believed that a sentence of suspension was never of longer duration than the time between the sitting of one General Convention and another. Let them look at the state of the law in the particular case to which they proposed to apply a remedy. No doubt the canon had been suggested by the appeal from the Diocese of New York. In looking into the case they discovered this singular but emphatic circumstance, that a sentence of indefinite suspension equal, as the honorable gentleman from Ohio said, to degradation, was pronounced, derived its authority from the opinions of six of the Bishops of that body, and those six the very individuals who not only did not believe that the venerable individual then under charges before them had received sentence of degradation, but pronounced him in the face of God, not guilty of any proveable offence with which he was charged.

Mr. Delano rose, he said, to correct a misconstruction of the hon. gentleman from Pennsylvania. He (Mr. D.) had not contended that suspension and degradation were the same. He had distinctly stated his opinion that he office was left without functions, and had attempted to show that the destruction of the Episcopal and ministerial functions necessarily voided jurisdiction. He wished the gentleman to meet him on that point.

Mr. Ingersoll resumed. He did not desire to meet the gentleman in any discussion now. The sole object at present was to show that there were two parties entertaining very different opinions on this case and that both should be met. The learned gentleman, after some further remarks, concluded by expressing his desire to allow the Diocese of New York a vote on the decision of the matter.

Mr. Rives briefly replied. It was of course impossible to frame a resolution responsive to all the issues in this case. It was true that his resolution contemplated a negative reply to the appeal of the Bishop. It was absolutely responsible to respond affirmatively to both parties.

The question was then taken on laying the canon on the table, and it was decided in the affirmative.

A motion to adjourn was then made.

Dr. Hawks moved a recess till 7 o'clock.

The Secretary stated that time would be required to make the arrangements for lighting the church.

Dr. Hawks withdrew his motion and then

The House adjourned.

FOURTEENTH DAY'S SESSION.

Thursday, Oct. 21st, 1847.—The House met pursuant to adjournment.

Morning Prayer was said by the Rev. Wm. G. Smallwood, Rector of St. James' Church, Zaresville, Ohio, assisted by the Rev. Clarkson Dunn, Rector of Christ Church, Newark, N. J., reading the Lessons.

The minutes of the preceding day were read by the assistant Secretary and approved.

Leave of absence was granted to several members, on report of the Committee on Elections, and substitutes were admitted to seats.

Rev. Dr. Edson, of Mass., offered a resolution referring to the Committee on the Prayer Book the expediency of translating that Book into Danish.

Rev. Mr. Moore submitted a report with a version in French of the Prayer Book, from the Committee appointed for that purpose at the last Convention: referred to the Committee on the Prayer Book.

Rev. Dr. Burroughs, submitted a report from the Committee on the state of the Church, with a resolution adopting it, ordering it to be entered on the Journal and to be sent to the House of Bishops with a request that they would issue a pastoral address to the Church.

Mr. Williams of Va., offered a motion to take up the first canon proposed by the Joint Committee,—laying on the table the amendment under discussion at the time of adjournment yesterday.

Dr. Forbes asked for a more full explanation of the step proposed.

Mr. Williams said his object was to enable the discussion to go on, upon the main topic now under debate. If any gentleman should indicate a disposition to discuss the question, he would withdraw the motion.

Mr. Ingersoll of Pa., stated his impression of the actual position of the discussion, with a view to show that the measure proposed would be inexpedient.—He offered the following canons, which he had sketched with a view to state the points most prominently in his mind:—

CANONS.

"*Canon of relieving a Diocese whose Bishop is under sentence of suspension.*

"In all cases when a Diocese is deprived of the services of its Bishop by a sentence of suspension for an indefinite period, it shall be lawful for such Diocese to proceed in a new election as in case of vacancy.

"*Canon of the restoration of a Bishop under sentence of indefinite suspension.*

"A Bishop who may be under sentence of suspension for an indefinite time, may be restored by a vote of the House of Bishops, upon compliance with the following terms:—

"The said Bishop shall present to the House of Bishops a petition setting forth the grounds upon which his restoration is asked, together with evidence that such restoration has been requested by a solemn vote of the Convention of the Diocese over which he held jurisdiction at the date of the sentence, and also testimonials from the House of Clerical and Lay deputies composing the state Convention and also from the clerical and lay deputies composing the general Convention, and of the assent to his restoration; and such testimonials shall be in the form of the certificate hereinafter set forth, and shall in both cases be signed by a constitutional majority of each of the respective houses of clerical and lay deputies in the State and in the General Convention as the case may be. The same evidence of the restoration being requested by the Diocesan Convention, and the same certificate of the members thereof shall be presented to the House of Clerical and Lay Deputies in general convention.

"*Testimony from the House of Clerical and Lay Deputies in General Convention.*

"We, whose names are underwritten, fully sensible how important it is that the sacred office of a Bishop should not, &c. * * but that for the three years last past he hath led his life piously, soberly and honestly."

Rev. Dr. Forbes, after some conversation among different members as to points of order, said that he had a proposition which he desired to submit, first making a few preliminary remarks. It must be clear to every mind that one of two things is true: either that the Diocese is *vacant*,—or that the sentence of indefinite suspension is *null* and *void*. The Diocese he thought was not vacant, and it needed no elaborate argument to prove this. By our canon law we have three grades of punishment, admonition, suspension and degradation. Degradation, it is universally agreed, does vacate the office, it strips the sentenced person of all jurisdiction as well as of all his functions. Does suspension do the same,—or substantially the same? If it does, then we have three grades explicitly provided and clearly laid down, reduced to two. This could not be. The reason of every one must show that this cannot be the case.—It is a clear case of *reductio ad absurdum*—the strongest possible form of reasoning. Again, suspension is necessarily limited—it implies limitation in its very essence. But if it be held to vacate jurisdiction, there can be no such thing as limitation. Hence suspension by its very terms precludes the idea of vacation of jurisdiction. An effort will be made to show that under the old canon law suspension vacated the office. But that was *perpetua suspensio*, suspension for life, equivalent to deposition, or as it is styled in our canon, degradation. He therefore considered it certain and clear that the Diocese is not vacated. The next point he should contend for was that, as a necessary result, the sentence of the court was *null and void*. The sentence was simply suspension, and there existed at the time of passing it, no remissory power; and according to English law, according to all the principles of ecclesiastical law, in such cases of unlimited suspension, without any remissory power, the sentence is void. The *onus probandi* lies with those who hold the opposite opinion. And here too, as in the other case alluded to, the apparent exceptions flow from the fact that the sentence was by its terms perpetual. Besides in all the cases of the old canon law, in such cases it should be borne in mind that the Pope existed as a standing tribunal of appeal. He had examined all the canons of the Church upon the subject; and wherever apparent exceptions to the rule he had laid down occurred, the penalties in fact amounted to actual displacement—although the language of the sentence might have been simple suspension. He contended, therefore, that there was, in effect, no authority in the sentence pronounced upon the Bishop. It was null and void, and if the Bishop had chosen, immediately after that sentence was pronounced, to resume his office and take this ground, the great body of the clergy would have been bound *in foro conscientiæ*, to stand by him. What then is to be done? Many gentlemen say that the Bishop has been guilty of great misdemeanors, and ought not to be replaced on any condition. But they should consider the ground taken on the other side; and the special point which he wished to set forth was, that this was properly a matter of compromise; and of that character, was the proposition he had to offer. It was that in the present and all future cases of unlimited suspension, the sentence shall expire after a lapse of *three years*, or at the next meeting of the General Convention. He believed this to be just in itself, as well as likely to afford relief in this special case.—The object of suspension is remedial—intended not to degrade the man, but to fit him for his duties. If that be the true object of suspension, three years is long enough. It is long enough in this short life, for any one to endure the shame of such a sentence, especially for one in the decline of life. One church, and our mother church of England, never go beyond three years in asking after the character and conduct of a man upon his admission to any office. It seems to be a principle recognized in all the canons of the church. But it may be, and is said that public confidence in our bishop is lost, and that he should not therefore be restored. He had not acted upon the supposition that the Bishop was an innocent man; nor did he deem it especially desirable that he should now be restored; but amid all the difficulties which surrounded the case he felt bound to follow the guidance of some general principle, and he could find nothing safer than this. Besides, to meet this case, he had introduced a provision, which was intended to be conciliatory—to satisfy so far as could be done, both sides; it was embraced in the following:

Resolved, In all cases of sentences of suspension from the office of Bishop, or from the performance of Episcopal or ministerial duties, if the judgment or order of the Court or tribunal, does not appoint a time, or specify conditions of the termination of the sentence, it shall, as well in the case of any sentence at present in force, as in case of all future sentences, continue in force to the end of the General Convention next ensuing, and the suspension shall then cease and be determined—to be thereafter of no further effect: *Provided*, that a majority of the Convention of the Diocese, shall not dissent from and disagree to the exercise by such Bishop of his duties.

Rev. Dr. Hawks inquired what the special question before the House at present was. He wished to be able to take a broad view of the whole question, and he cared not for the particular form in which it should come.

The President said that the question before the House was, upon the substitute of the gentleman from Maryland.

Judge Chambers said he would consider his an amendment to which the proposition now offered, should be deemed a substitute.

Mr. Memminger entered into the question of order, which was discussed at some length, ending in the withdrawal, by Rev. Dr. Forbes, of his proposition.

Mr. Delano, of Ohio, offered an amendment, declaring that, inasmuch as the Court of Bishops had duly pronounced sentence upon B. T. Ouderdonk, for certain offences, of which he was found guilty, of suspension from the office of Bishop, therefore, the Episcopal connection, between said B. T. Onderdonk and the Diocese, is dissolved, and the Diocese may proceed to elect another Bishop.

Dr. Forbes then offered his proposition as a substitute for the whole.

Mr. Delano withdrew his amendment, saying that he should offer it again at a proper time, and moved to print all the Canons and resolutions on the subject, now before the House.

Rev. Dr. Mead said that this would cause a delay of another day. He thought it unnecessary.

The motion was lost.

Hon. W. C. Rives, of Va., said that he believed all the propositions which had been submitted were still morally before the House, and would be in the minds of members. He feared that the character of the one he had offered, had been almost forgotten. If members would revert to it they would see that he had been sincerely desirous of giving to the Diocese of New York relief, at the same time legitimate, effective, and adequate to all the purposes for which relief should be sought. He had held with the gentleman who spoke upon another branch of the subject yesterday, that every Diocese had a *natural right* to the services of a Bishop; and not only that, but a natural right to its own proper Bishop. Now what is the condition of this Diocese? In his humble judgment—and he hoped that however rash the proposition might seem to the gentleman from New York, who had addressed the House this morning, he should be able to satisfy the House of its truth—the constituted authorities of the gentleman's own Diocese have declared that this Diocese is, virtually at least, without a Bishop. The worthy and Reverend gentleman from New York had said that it was time that the voice of the Diocese of New York herself should be heard on the subject. With all possible respect for that gentleman, he begged to say that the voice of the Diocese of New York has been uttered, and that too in a manner not to be misunderstood, by the highest authorities of the Church in the Diocese. He asked by what authority the Standing Committee of this Diocese had been acting as the full, plenipotentiary ecclesiastical authority of the Diocese? Could it be in virtue of any other assumption than that the Diocese was virtually vacant? Let his friend look back to the Canons—the 4th of 1832 if he mistook not—which declares that the Standing Committee shall be "the ecclesiastical authority," in Dioceses "where there is no Bishop,"—and *only* where there is no Bishop; and then let him ask himself, if the Standing Committee thus authorized to act, has not acted in full exercise of ecclesiastical powers with the consent of the highest authorities. Again, let him turn to another Canon, providing for the 'performance of Episcopal offices in vacant Dioceses'—the very title of the Canon; and to that test let him bring the action of the Standing Committee of this Diocese since the year 1844 when this sentence was pronounced. Has not that Standing Committee invited Bishops to come into this Diocese for the performance of the Episcopal functions? Whence did they get their authority to do this. if this Diocese be not virtually vacant, for they are authorized so to act only in Dioceses where there is no Bishop? By what authority did those Reverend Fathers of the Church assume to come here, into the jurisdiction of another Bishop, and perform the offices thus solicited at their hands—if this Diocese be not vacant? Have gentlemen forgotten that fundamental provision of the articles of the Protestant Episcopal Church of the United States, which declares that every Bishop shall confine the exercise of his Episcopal office to his own proper Diocese, until he shall be solicited to perform certain ministrations in Dioceses *destitute* of a Bishop? And here these venerable men, clothed with the highest authority of the Church, did not hesitate to come forward at the invitation of the Standing Committee, and to perform these offices! He knew that some of them entertained a different view, and considering an invitation to be founded on the assumption of a case which had not occurred, to wit, that the Diocese was vacant, declined to violate their own sense of propriety, and did not come. But a large number, a majority, he believed, of the Bishops called upon, had no difficulty or scruple of the kind; and the very fact that the difficulty was felt by others, only proves that this specific point was of necessity involved in their action and was decided by the action of the majority. He said then, that the question had been decided by the Diocese of New York itself. It has spoken most authoratively upon it. This whole question came up before the first Diocesan Convention, after the trial of Bishop Onderdonk, was there elaborately and ably argued, and by an almost unanimous vote, the proceeding of the Standing Committee, justifiable only on the assumption that the Diocese was vacant—was declared to be *fully justified* by the Canons of the Church; and the Committee was invited to go on and act as it had done before, not, as was suggested, with the sanction of the suspended Bishop, but by virtue of their own authority. It passed by an almost unanimous vote the first Diocesan Convention; and thus had there not only been a practical decision of the point by the acing ecclesiastical authority of the Diocese, but it had been ratified by the almost unanimous voice of the representative body in the Diocese. The Diocese, then, has declared itself to be without a Bishop, in every practical and essential sense. The Diocese being thus *vacant*, according to the most deliberate action and most conclusive declaration of the authorities of the Diocese itself, he said it was imperatively incumbent upon the General Councils of the Church to supply some mode of lawfully and legitimately filling the vacancy. Adverting to the position that every Diocese has a natural right to its own proper Bishop, he would say, that if he were not mistaken, (and he would always speak upon these points with great deference to those so much better acquainted with them,) the ancient Canons of the Church considered this to be a proposition so sacred and so vital to the interests of the Church, that it was enforced by one of the most stringent Canons to be found upon her records. There was a direct provision that if the Metropolitan should fail to take measures for the appointment of a new Bishop, in any Diocese actually vacant, no matter from what cause, within three months, he should be subject to high ecclesiastical censure for the omission. He respected the considerations which had withheld the Diocese from exerting the power which, in the exigency, it unquestionably possessed, of proceeding at once to the election of a new Bishop. They knew that a difference of opinion prevailed upon the subject, in regard to the technical character, nothing more, which the suspended Bishop sustained to the Diocese and to the Church.—There were those who held the opinion that the Bishop was indeed suspended from the functions of his office, but that he did, nevertheless, by some Divine and indefeasible tenure, hold the office still, and must be considered as the nominal and titular Bishop. He doubted not that considerations of tenderness and sympathy towards the individual himself, had also influenced many to concur in the determination, early adopted, to submit the whole matter to the deliberate and solemn decision of this Body. It was a course worthy of the Diocese, and in consonance with that Christian forbearance which ought ever to characterize the proceedings of ecclesiastical bodies; and while he thought that they might, logically and consistently, proceed to the election of a new Bishop, he yet conceded that they had, with great propriety, abstained from the exercise of that power; they had left the Diocese for three years in its anomalous position, and then resolved to come to this body and ask for relief. They have thus come, and have thus asked for relief. And shall we, when they thus come, and after all this, ask for bread, even for the spiritual bread of eternal life, shall we turn a deaf ear to their call and give them a stone? And what else would it be (with all respect and with every feeling of deference to the Joint Committee to which this matter was first entrusted,)—what else would the report which that Committe has made, be to the Diocese of New York? It gives them nothing which they are not already in full possession of—that is, the power, by the independent action of their own Convention, to put the Diocese under the full Episcopal charge of another Bishop—some neighboring Diocesan or missionary Bishop. It does no more than to give them what they already have. After the decisions already had—after the Diocese had already called upon other Bishops to perform Episcopal services within its limits, it is equally competent for them to pursue the course now proposed—to place the Diocese, at any moment, under the full Episcopal charge of another Bishop. Under the first section of Canon I. of 1838, this matter is settled. A Diocese where there is no Bishop, is certainly a Diocese without a Bishop. Conceding, then, what has been settled, that the Standing Committee was authorized to invite Bishops from other Dioceses to perform Episcopal offices in this, and it is clearly competent, under that Canon, for the Convention of the Diocese, by its own action, to place the Diocese under the full Episcopal charge of another Bishop. The Canon proposed, provides for that and for nothing else. Is this the remedy which the exigency of the case, which a proper regard for the Diocese and for the interests of the Church, call for? Very different—very far from it. As he had said before, every Diocese has a natural right to its own proper Bishop; and this Diocese is entitled to demand, at the hands of the General Convention, the appointment of its Diocesan. If he mistook not, (and he submitted with great deference to those who knew more of the matter than himself,) the provision falls not only short, but is inhibited by the spirit of the ancient Canons of the universal Church. There was a Canon in some of these codes declaring that if any Bishop, who might be introduced as intercessor, or as what is called in English law, the temporary guardian of the spiritualities, should attempt to fix himself in the Diocese, he should be subject to ecclesiastical censure and punishment. It is sufficient to refer to this. Gentlemen, familiar with the matter, can, and doubtless will, explain the history of this provision. And now what is the effect of the measure reported by the Committee, but to fix an intercessor, a provisional Bishop, in this Diocese? Instead of meeting the difficulty at once, by determining the question whether a vacancy exists in the Diocese and if so by giving them authority to elect a new Bishop, the report, assuming that there exists merely a disqualification for the performance of official functions, puts off the Diocese with the charitable allotment of a provisional Bishop, to be fixed, till doomsday perhaps, upon the Diocese till the disqualification in question shall be removed. With all respect for the Committee he must say, this falls far short of the exigency of the case, and is forbidden alike by the rules of Church polity, and by the spirit of the ancient Canons of the Church. He would now approach the true question. There are only two modes of relief open, and he was glad that they had been presented by the remarks of the gentleman from New York. They were either to restore the suspended Bishop; or to declare the Diocese vacant and elect a new one. These two positions are directly antagonistic to each other. They stand confronted face to face at every stage of the debate; and there is no intermediate ground that can possibly be occupied. Now he hardly supposed that any gentleman would introduce a formal proposition for the restoration of the suspended Bishop of this Diocese. He did not believe that there was a man, whatever might be his regard for the unfortunate and venerable person who was suffering the consequences (he must say,) of his own indiscretions to say the least, whatever his feelings in respect to that venerable man, (he would still permit himself to call him so,) who was prepared to propose his restoration in form to his office? Such an act would inflict a blow on the interests of the Church in this country from which it could never recover. He understood his worthy friend from New York, fully to admit this. He understood him to say that he did not think this unfortunate and melancholy victim of his own frailties, to be innocent of the offences laid to his charge, nor that his restoration could be effected without the most melancholy and disastrous results.

Rev. Dr. Forbes said the gentleman stated his position much too strongly. He meant simply that he did not regard the resumption of his duties under present circumstances as, in itself, desirable; but more desirable far than the violation of any settled principles of law and justice.

Mr. Rives begged leave in passing—because he believed the restoration of the Bishop to be the only alternative proposition to his own—to repeat, as the result of anxious thought, his conscientious conviction, that this restoration, except upon the clearest and most inflexible principles of justice, would be one of the greatest calamities which could fall on the Church, of which we are all disciples and children. Something had been said by his friend from New York, of repentance, reformation, and amendment. He must express his full concurrence in what was said yesterday by the gentleman from South Carolina, that whatever might be the penitence of the venerable and afflicted gentleman who had fallen under the sentence of the highest tribunal of the Church, whatever pledges he might give of reformation, could plead nothing for his restoration to holy office in the councils of the Church. They may avail to obtain forgiveness and charity from his fellow men—to restore him to the sympathies, confidence, and affections of his friends; they may do more; they may, through the blessed Redeemer, blot out his transgressions by the mercy of an omnipotent and infinite God; but never can they avail for the restoration to that high and holy, that sacred and responsible office, which he held in the Church of God, and from which he has been so solemnly suspended. Here he (Mr. R.) bottomed himself on the fundamental Canon of the Church, which made penitence, or what was the same thing, penance—let the humiliation be whatever the imagination can paint it,—an obstacle to restoration. It is a fundamental Canon from which there has been no deviation to the present day, that the performance of penance, with the ancient and humiliating ceremonies which accompanied it—is of itself an obstacle to restoration or election to clerical or ministerial offices, so much so, that if, after ordination, the individual should appear to have done penance, his election and ordination should be void *ab initio*. If he was mistaken he could be corrected. But he alluded to it to show the weight of a fundamental principle of the Church, and of common sense. That Canon declared that they might be restored to reconciliation and pardon, but never hold any clerical or ministerial office in the Church. He (Mr. R.) was bound to express, in the strongest terms, his solemn conviction that, under any circumstances, the restoration of a Bishop suspended, by a large and decisive majority of the highest tribunal of the Church, because proved guilty of conduct *contra bonos mores*,—an example of that sort would be fatal to the interests of the Church in this country. He had seen with satisfaction that the case now before us, had attracted attention across the Atlantic; and that a recent learned and able writer on ecclesiastical history, the Prussian Minister at the Court of St. James, (The Chevalier Bunsen,) in a book published there during the present year, had referred to the sentence against the dignitary of the Church, holding the highest rank, had been suspended from all the functions of his office for immoral conduct, as an evidence of the soundness and piety of the American Church, and as putting that Church *in eminence* above all the other Churches of the world. Having thus provided an example of *discipline*,—having thus put ourselves forward to the world as a model of piety and sound discipline,—shall we now by revoking that action, prostrate our honors in the dust? He held it to be out of the question. He took it for granted that it would not even be directly proposed, and that if proposed it would certainly meet with no support. But what does the gentleman from New York propose? To do the same thing indirectly,—to restore indirectly the suspended Bishop, by declaring his sentence null and void. He was greatly surprised,—because in his intercourse with that gentleman he had conceived a great personal esteem for him,—he was greatly surprised at the strong language in which he denounced, as destitute of all reason, any attempt to show that the sentence had any binding force. He believed he even pronounced any such opinion absurd. Though he should thereby subject himself to that imputation, he must say that he did consider the proposition so plain, in regard to the validity and legal force of the sentence, that it was hardly possible to argue it. Why, is not the sentence in the very words of the Canon? What does the Canon say? That ecclesiastical sentences shall be admonition, suspension,—no distinction between limited and unlimited,—and deposition. Now this sentence is in the very terms of the Canon. When the vote was taken in the court, a majority was found to be in favor of suspension—simple and absolute. No question can arise as to the validity of that sentence,—the only question is, as to its effect. His friend had asked if suspension were a legitimate sentence in the sense now given to it, what was the meaning of the Canon which established a difference between suspension and deposition? Our interpetation, he said, would make them equivalent Begging his pardon, for he must be far better acquainted with this matter than himself, he should venture to tell him that according to the strictest construction, there was a very broad line of demarcation between them. According to the fundamental Canons of the Church, a minister deposed is excluded forever from office. A gentleman yesterday had gone back to the old age of the Church, and brought forward the doctrine of the indelibility of church orders. But this cannot now be maintained. It is now held that a minister once degraded, cannot be restored. But a minister who is suspended, may. Can we expect a broader line of demarcation than this? In view of the fact that the majority of the Court of Bishops, on two successive ballots, or scrutinies as they are called, voted for deposition—can we now expect the sentence actually passed to be distinguished from that, by a clearer or a broader line? Now it may seem presumptuous to respond to the challenge which calls upon gentlemen who take this view to state the *onus propandi* and to show that there is such a thing as suspension in the sense in which it is now defined. Why the gentleman himself, must know all about this. It is clearly laid down in the very born-books of ecclesiastical law. In Bingham, Ayliff, and even in Gibson, we find suspension defined to be a kind of punishment embracing different grades,—a sort of generic term including various species. Bingham says it may be limited and tem-

(*Continued on page 4.*)

Hence it is said there is a suspension ab officio or beneficio, or ab officia et beneficio."

But that is not all. I quote now from Bingham's work, the edition of 1844. He is speaking of the punishment of suspension, and proceeds in book 17, to say of clergymen: "Sometimes they were suspended, not only from their revenues, but from their office and functions. And this was either temporary and limited, or perpetual and without restriction. The temporary suspension was only depriving them of the execution of their office for a certain term;—and when that term was over, they had liberty to replace and return to the execution of their office in all the parts and duties of their function: but the perpetual suspension was a total deprivation of them from all power and dignity belonging to the clerical office, and a condition of them to the state and condition of laymen, without any ordinary hopes or prospect of ever recovering their ancient station." Now so certainly was this the law, that at first the sentence of degradation was not known at all. The punishment of degradation then threw out in some degree the penalty of suspension,—for as it was applied the term of degradation was given to it by the common people, because it had the same effect. "The former of these," he proceeds to say, "is commonly called by the ancient abstension and suspension from communion, meaning clerical communion only: and the latter vulgarly known by the name of degradation, de-ordination or deposition from the office and order of the clerical function." And then in the next chapter, in treating of the specifications of suspension, I would have the House mark it, he says;

The other sort of suspension commonly called deposition or degradation was a total and perpetual suspension of the power and authority committed to a clergyman in his ordination."

But there is more than this. This very writer, though not in this work on the Antiquities of the Church, gives the history of a case to which he alludes in this: and I desire to call the attention of the House to that case. In the book he is speaking of what should be done in the case of a Bishop: and the title of this chapter is, "Sometimes Clergymen are perpetually suspended," mark it. "from office and yet are allowed to retain their title and dignity." Among the cases cited are two of the Counsel of Ansera, two of St. Basil and two of Nice. This is what he tells us in his Antiquities, and in the case of Milesius it was determined that he might retain the bare name and honor of a Bishop: and this was under perpetual suspension. The history of this case is important and the work in which it is given may serve to correct an error into which people very generally fall, that the Council of Nice was called solely to put down the heresy of Arius. That was one great object, but another just as definite related to the vary case of this man,—Milesius. The case was this: In the time of the Diocletian persecution, Milesius, a Bishop, sacrificed to idols to save his life: and afterwards attempted the resumption of his functions as Bishop. His Metropolitan administered discipline and, I think, deposed him. The Council of Nice took up the subject, and this was one grand object of that council, which inflicted the sentence of perpetual suspension, expressly affirming that it was from the functions of his own or any other church. I cite this to show that the sentence of perpetual suspension is no such novelty as some among us would represent.

But will it be asked, why, when sentence of suspension is pronounced, and no time is fixed, why it should be deemed a universal proposition and therefore perpetual? I think the reason given is one which commends itself to the sound sense of modern times as well as of the early days of the Church. As the sentence of punishment admits of modification more than any other, it is clear that time was of the essence of the sentence: for it is obvious that though one day more or less may look like a trifle, one year, or five years or ten or twenty years would be a very serious matter in regard to the effect of a sentence of suspension. It is, therefore. seen that time, and time only, is of the essence of suspension, considered in the light of punishment, not only of greater or less time, but of greater or less punishment. That being the case, as there could be in the minds of those who pronounced sentence no doubt as to what measure of punishment they meant to apply, the rule therefore was that if nothing was said as to time—not because it was unimportant, not because it was absent from their minds, but because as part and parcel of the sentence, they had duly considered the question and could not fix any time as large as the crime deserved,—the rule came to be adopted that if nothing was said as to time, the sentence should be deemed perpetual.

I do not wish to be troublesome to the House by reading ancient authorities, but I beg that they be not dismissed with a sneer, as was attempted in the case of the decision of the court of Salamanca. I love Antiquity. I believe wise men always respect antiquity.—And especially in ecclesiastical matters I believe him to be the wiser man who cleaves closer to real primitive antiquity; and by such a man I understand not one who is unwilling to embrace antiquity when it helps to establish some favorite dogma, and discard it when it points to some established fact of ecclesiastical usage; I beg gentlemen to be consistent. I venerate the genius of antiquity, not as binding us like our own laws, but because sensible men should gather light from all sources, and because one of the best we have,—nay, the only source of light on some points, we have, is ecclesiastical antiquity.

But as I am not arguing for victory, and am not anxious that the House should adopt my opinion unless it be sustained by reason and truth, I shall proceed, in all fairness, to consider the objections that may be made to the view of the case I have now presented. I may not hit every objection, but I mention those which have occurred to my own mind in the investigation of this subject, and which seemed to admit of a satisfactory answer. It is objected that indefinite suspension, or suspension without a fixed limit of time, is a sentence unknown to the Church. We will see more fully by and by how that may be. I beg to say that it is an entire mistake to suppose that the Church does not recognize a sentence of suspension unlimited as to time, or founded on contingencies that may never happen. This point has been settled by our own legislation. I call the attention of the House to Canon 34th, of 1832, which relates to the cases of the controversy between ministers being rectors and their congregations, and provides a mode of settling them. Presbyters are to be called in, and if, after consultation it shall appear that the difficulty cannot be reconciled, and that a separation is indispensable to the peace of the Church, they are to fix the terms of separation. And now what shall be done if the rectors shall not comply with the terms fixed upon by this Council? "If such rectors, or congregations refuse to comply with such recommendation, the Bishop, or other authorities, may proceed according to the Canons of the Church, to suspend the former, (that is the clergyman) from the exercise of any ministerial duties within the diocese;—and any minister so suspended shall not be permitted during his suspension, to exercise any ministerial duties." Now here it is obvious that the minister may stand out to the end of his life. If he does,—that is a contingency indefinite; and therefore the Church does recognize the sentence of indefinite suspension. But that is not all. As confirmatory evidence that this idea is not so very new, permit me to call attention to what, though not a legislative act, may still be considered confirmatory evidence. It is the fact that the House of Bishops recognized both limited and indefinite suspension. In the Journal of the House of Bishops for 1844, at page 141, I find the following record:—

'Bishop McIlvaine, from the Committee on Canons, reported the following Canon, entitled 'of the effect of suspension from the ministry on jurisdiction.'"

"1st. Any Bishop, Priest, or Deacon, who shall incur the penalty of indefinite suspension from the exercise of the ministry, shall be thereby held incapable of jurisdiction, &c.

"§ 2. In cases of the limited suspension of any Bishop, &c.

Here, then, we have the opinion of the Bishops, that both limited and indefinite suspension, were terms well known to the Christian Church; and never did the House of Bishops express an opinion, in my judgment, more entirely correct. The Canon was sent down and lost in the lower House.

Dr. Van Ingen here said that if the gentleman were to introduce an incomplete history of the Canon, he must permit others to complete it.

I claim, said Dr. Hawks, to know the history of that Canon, and I have no special wish to tell it. But I do claim that the Canon was rejected in our House after a statement by me, that suspension carried jurisdiction with it; that I told the Bishop the ground of my objection; that he acquiesced in my view of it; that in the Committee on Canons, the same ground was taken; and I have understood that the gentleman, now a delegate from New York, stated in the House that the ground of its rejection was, that the Church did not contemplate anything like indefinite suspension. I have merely cited this as evidence, that it is not quite so clear as gentlemen would represent it, that indefinite suspension is a matter of which our Church knows nothing. I think certainly, that many of our Churchmen might be better informed than they are, on the subject of early ecclesistical legislation. But I have been surprised, Sir, in looking over the Canons of 1834 and subsequently—surprised as well as gratified, to find so entire a conformity to the ancient legislation of the Church.

Before I leave this subject, allow me to ask, why it is so surprising that such a punishment should have been provided? Is there not a case for which just such a remedy is indispensable? Is any Church exempt from heresy? And should not the punishment for heresy last, as long as the heresy lasts? And can we say, in any case, that this will end before life ends? As long as there is such a crime cognizable by our Courts, so long must we have a sentence of suspension which shall not specify on its face when it shall terminate.—You cannot help it unless you determine, (and such an outrage upon the practice of the early Church, and upon humanity, I am sure no one would advocate,) unless you determine to affix to this offence the punishment of degradation which bears down the offender forever beneath its weight. If you suspend one guilty of heresy, you give him a chance to recant:—but the sentence must last till he does recant:—that contingency may never happen during life; so of necessity the sentence must be indefinite.

Having thus placed before the House an outline merely of the law on this subject, permit me to turn to the sentence itself. It will be borne in mind that I have already shown the early understanding of the sentence,—how far we are bound by it will be discussed presently,—but for the time I shall suppose, with some force,—let us turn to the sentence itself. We have heard it characterized as uncertain. We have heard it said that it is not ecclesiastical. Now I must be permitted to say, that if the individual who drew it had been the most thorough canonist, he could not have drawn it more in accordance with existing canon law upon the subject. What has he done? There were three things with which the sentence could interfere; office, order, and benefice. Office, and order, were the two points to which the House of Bishops directed particular attention. Did they, or did they not, dispose of both? The sentence is in the terms following:—"It is hereby ordered and declared that the sentence of this Court upon Respondent, is suspension from the office of a Bishop in the Church of God, and from all the functions of the sacred ministy:" office and order are both affected,—both explicitly, directly taken away:—"and," the sentence continues, "this Court do hereby solemnly pronounce and declare that the Right Rev. Benjamin Tredwell Onderdonk is suspended from" what? his Episcopal functions merely? No—"from all exercise of his Episcopal and ministerial functions." Can language be more explicit? The gentleman from Maryland attempted to show that the latter clause of the sentence neutralizes the former.

Mr. Evans—Not so. I explicitly stated that as we could not suppose the Bishops meant to neutralize the former clause, we must consider the latter as an exposition of the former.

Dr. Hawks—I take the whole together,—it is fair to do so. We have first in the sentence, suspension from the office of a Bishop, and from all the functions of the sacred ministry, and then he is declared suspended from an exercise of his Episcopal and ministerial functions. I hold that the sentence is full, perfect, complete, canonical, sustained by precedent, and as ecclesiastical as any ever pronounced in a similar case. It names no time; and I have already stated the rule on that subject to be, that, as time is essential to the sentence, the omission of time is never accidental. It is an essential feature of the sentence. The omission always, when we look upon the sentence, stares us in the face; and with that omission there can be no construction, save one, in the words of the canonists, as extended and universal as possible; so much so that one of them has said that the severest punishment that can possibly be inflicted is comprised in the single word "suspension."

The exception was taken, that benefice is not taken away by this sentence. We will see how the law stands upon that matter. It is doubtful how far we have any benefice, in the strict technical meaning of that term. There are truly no benefices in our country or our church. We may call them so, but technically they are not benefices. Let us grant however, for the time being, that they are somewhat in the nature of benefices—not established, not founded on the legislation of the country—and see what we shall come to then. There was a time, Mr. President, when the Church was poor, when she had no benefices. Then the pay for the services of the ministry was termed its fruits; and we are told by Guyot, "that before the revenues of the Church were separated, the suspension from orders imported a deprivation of the fruits of the exercise of the orders; therefore, suspension from orders carries with it suspension from the fruits. I must here, believing, as I do, that the sentence is in strict accordance with the law, correct a singular mistake of the gentleman who spoke upon this subject to-day. In their anxiety to preserve the benefice, I was at first puzzled to understand how gentlemen, whose intelligence I have always respected, should fall into so singular an error as to suppose that benefice has any thing to do with jurisdiction; and one of them went so far as to say that the Bishop's jurisdiction was his *see*. I was surprised till I perceived that their object was to establish this point—that, as the benefice is not taken away in express terms, and as jurisdiction attaches to the benefice, *ergo*, jurisdiction still existed—and that not as a mere abstract potentially, but as a real tangible something—not taken away, but still possessed. I will not—I have too much respect for these gentlemen to impute it to ignorance; but it is certainly an extraordinary oversight—a most extraordinary oversight. For I do most peremptorily deny, and I will convince the House that I am right, that the question of jurisdiction ever has had, has now, or ever can have, any connection whatever with the question of benefice. It belongs to the *office*, and not to the benefice. There are, as I have said, three things which you may touch; but when you touch benefice, you touch nothing but benefice—the bread and the meat—but not the jurisdiction—and you cannot touch jurisdiction through benefice. But if you do more than that—if you touch the office—then you do touch jurisdiction, aye, and in a vital part. This is fully proved by both Pichler and Guyot. The former, in his "*jus canonicum*," expressly declares that suspension deprives of office or of benefice—office, under which comes the power or ecclesiastical jurisdiction—*officii, quo nomine venit potestas ordinis et jurisdictionis ecclesiasticæ*." Again, says Guyot, in his Repertoire, "there are three sorts of suspension, first from orders: second, from office, which deprives of the exercise of jurisdiction, and from all the other functions appertaining thereto: and third, from benefice, or the fruits," &c.

Perhaps upon the subject of jurisdiction, still more light may be needed. We have heard it asserted that Consecration gave jurisdiction. The consecration of a Bishop give him his jurisdiction? Sir, it is not so—neither in our mother country nor here, is that the case. I am happy to have it in my power to ask the attention of this House to the opinion upon this subject of one whose name is dear to the heart of every New York Churchman—of a Bishop who presided here for many years, with an energy and dignity which all must remember, and who may well be deemed by us to have left behind him *clarum et venerabile nomen*. From him I shall read—I mean (I thought I need scarcely name him,) Bishop Hobart. "No," says he in a pamphlet upon the case of Cave Jones—"now it will not for a moment be maintained that the resignation of Episcopal jurisdiction violates any essential doctrine of Episcopancy. It may be inexpedient—it may be not wholly compatible with the responsibility of the Episcopal character; but it cannot be subversive of any fundamental Episcopal principle. The connection of a Bishop with a particular district, is a matter of mere human regulation." Again: "Bishop Provost resigned his Episcopal jurisdiction to the convention of the Church in this State: and the Convention had nothing to do but to appoint a successor, or leave the diocese destitute of a Bishop. His jurisdiction over the Church in this State then ceased, and cannot be resumed but by the consent of the Convention to whom he resigned it, and from whom he received it. A Bishop receives his commission, his spiritual functions, from the Bishops who consecrate him: but he receives his jurisdiction over a particular Diocese from the choice of the Convention of the Church in that Diocese. Every thing relative to Episcopal jurisdiction is a matter of human regulation."

In these opinions I do most heartily and cordially concur. The distinction is plain, between Episcopal authority, and jurisdiction in the district where it is exercised. One gentleman told us to-day that he was often perplexed to find a proper definition for the term jurisdiction. In our Church jurisdiction means the right, within certain geographical limits and over certain people, of exercising Episcopal functions when the capacity to exercise them has been given by consecration. And wo betide our church when it shall be interpreted to mean anything else. Where does jurisdiction come from, if not from the Diocese? Does that House, when it sends a Missionary Bishop to Constantinople or to China, give him jurisdiction there? By what right do they, then, send these men into the dominions of the Sultan, or into the Celestial Empire, and say to them, go and set up their tribunals; establish there the canons of the Episcopal Church; and take the jurisdiction—for we confer it on you? Did they ever pretend to any such authority? They give jurisdiction. Why if that may be urged, and successively urged, the time is not far distant when we shall hear gentlemen commanding us to believe the doctrine, because it was the good old doctrine of Rome. The Pope pretends to all this nonsense, but I never knew that any Protestant denomination on the face of the earth pretended to it. The Pope pretends to be the universal Bishop for the whole of this grand and beautiful world which God has made for us; and he might just as well pretend, as he once did, to divide among the sovereigns of Europe, in the period of Western discovery, the whole face of the habitable and inhabitable globe. The world would laugh at his claim; and I wish not to see one equally futile now set up, in the pretence that the House of Bishops can confer jurisdiction. Consecration confer jurisdiction? When we passed the resolution allotting the missionary Bishop, of the North Western Territory, to the Diocese of Wisconsin—did this consecration confer on him jurisdiction, or did his election by the Diocese, which we confirmed, do that? When Bishop Chase left Ohio and went to Illinois, there were not presbyters enough to elect a Bishop. A Bishop of the Church, having orders, was elected by three or four presbyters; and the Diocese presented itself to us requiring us to receive her as a Church fully organized, having a Bishop, Priests, Deacons and Laymen. We received them. Did his consecration give him jurisdiction over Illinois? Never—never! It is preposterous to contend that jurisdiction comes from any source but the Convention. It can come from no other source. How is it in the Church of our mother country? When a Dean is to be elected the King issues his *Conge d'elire* as the representative of the laity of England. He acts simply as the temporal head of the Church—spiritual head he does not claim to be: and every writ that issues, directing the election of a Dean and Chapter, is a recognition of the truth that jurisdiction comes not from consecration. Nay, in those cases when jurisdiction is voided, where goes it back? To him who is authorised by statue to represent the majesty of England, and therein to represent the people of England. One word more before I leave this part of the case. My friend from Maryland took a refined distinction, when he said that the suspension was not from the office, but from the exercise of the office. There is no distinction at all, practical or important, between the two.

But another objection that will be made to the argument I have addressed to the House is, that I have been reading from the old Canon law—that I have been reading the writings of those who are not of our Church, and not from the fathers of our own fatherland—and that these opinions, however definite, can have no binding force on us. Sir, if I had come here and urged these extracts as having the binding force of our own Canons, I should not deserve the kind and the patient attention of this House which I have received. I have come with no such absurd and ridiculous purpose. They are not of binding force on us. But the question is of the binding force of our own Canons; and when we try to get the meaning of our own Canons, (for the meaning of a Canon *is* the Canon,) then I introduce these authorities, not because they are of binding force, but because they furnish the key for interpreting the language of our own Canons. Thus, when it is declared that the punishments of the Church shall be Admonition, Suspension, and Deposition, and when we find that all these have a certain clear and well-defined meaning, and that in one instance the meaning has been recognized by this very General Convention, we have a right to produce these as evidence to aid us in the inquiry; and the question is, which is wisest, which is best, which is most in accordance with prudence—an interpretation of the ecclesiastical terms of our own law which accords with the received interpretations of ages; or to set up an altogether new and totally unsupported interpretation, which has no light and no support from the experience of the past. Let me illustrate my meaning by a case which every lawyer will understand. Suppose that a statute is passed in which occur the terms, executory devise, fee simple—any of the technical terms of common law. We ask for an interpretation of this statute; what judge would hesitate to silence the counsel who should insist that "fee simple" did not mean fee simple? Why, if "suspension" means something definite, it is wise to adhere to it as a term of art. This is only reasonable; and the question for the House to decide is, how far it is wise or safe to depart from the previous interpretation of technical terms, if you adhere to it, "suspension" will mean what I have read to you. If you reject it—do so; set aside the ancient Canons, but pass a Canon defining all your terms, for if you do not, you will find yourselves involved in interminable difficulty. But is it best to adhere to previous interpretation, or to cut loose, and in a spirit of self-satisfied conceit declare that "we are the people, and that knowledge will die with us," and throw behind us all that the good and the wise of past ages have established for our aid? Which shall we do? I believe it to be the part of wisdom to adhere to the settled interpretation of technical terms. I believe this, in part, because this House has already done it; because we have done it on this very subject. The very point that is now before us, what should be the rule of interpretation in fixing the meaning of our own Canon—has been taken up and disposed of, because this House thought it could and should interfere, where it wished not to be bound by those very determinations of the Canonists. I will show the House that they have done this. Canon 39 of 1832. Let me first remind the House that in 1789 there was a Canon fixing Ecclesiastical punishments the same as now; and that in 1808, &c., through a long series of legislative acts they have uniformly had the same punishments. And now as to degredation and deposition, what did our legislature do? As the two are not, as the language shows precisely the same thing as this Canon, the 39th, of 1832 was passed, declaring that "when any minister is degraded from the Holy Ministry, he is degraded therefrom entirely, not from a higher to a lower order of the same. Deposition, displacing and all like expressions, are the same as degradation." Now if deposition, displacement, &c., had been before all the same as degradation, there would have been no necessity for this decision. If they are not the same,—and the fact that this Canon was passed shows that they were not,—why were they not? Because the ancient canonists did not give the same definition of them; and because the Church when it altered established a precedent, and when it did not alter, recognized the ancient Canon law as of force. We may alter now;—We may declare that suspension shall mean this thing or that thing. To be sure we cannot alter the meaning which the word had when the sentence was passed. But we may give it another sense for the future, if we choose so to do.

But another idea has been thrown out. (I hope for the indulgence of the House;—I will get along as fast I can.) It has been said that the sentence is nullity, because there exists no revisory power. With all possible respect, I must say that I never saw a more palpable *petitio principii* in my life! A nullity? When it has been proved that it is in strict conformity to the Canon law of the ancient Church, and of our own Church? Is it now to be pronounced a nullity for its uncertainty,—when the very question is, *is it* uncertain? I contend that it is as clear and definite as language can make it. Yet it is pronounced a nullity; and the argument is deduced that, being a nullity, any one may interpret it as he pleases,—may throw it to the winds if he likes. And it was even said by one gentleman, that the Bishop may resume his functions to-morrow! What, sir, resume his functions to-morrow—while the sentence is in force?—For grant all that can be asked, that it is of necessity temporary,—it is still a sentence;—it is not revoked;—it is not touched; and if the sentenced individual should attempt to perform ministerial functions from which by it he is suspended, his punishment would be both swift and sure. He would be presented for contumacy, and all that it would be necessary to prove would be, the fact that he had attempted to perform ministerial functions, and his degradation would be inevitable; for the Canons of the Church recognize no other punishment for contumacy. Resume his duties to-morrow? O! sir, if there be any here who love him, let me entreat them to warn him against such an act of madness and of ruin! But there is, it is said, no revisory power. Is this an objection to the sentence? Pray, where does all jurisdiction come from? Does it come naturally, or is it conferred? It is conferred, of course. No body can sit with jurisdiction, until it has first been granted to it. The power to remit belongs to the Church, and is one of her holiest and most blessed attributes, for it implies the exercise of mercy! God forbid that all her sorrowing, penitent children should not be forgiven and restored to all that is consistent with the great interests of the Church at large. It is the duty of the Church to restore all repenting offenders to her love and her care; but it does not thence follow that they are to be restored to the exercise of all the high functions of the ministerial and Episcopal offices. Mercy does her work when she opens wide the door of the Church, when she calls upon all the sorrowing and repentant sons of men to come to the gates thereof, and assists them to enter within her sacred walls. To the Church at large there is no mercy in extending too far this holy principle,—in permitting offenders again to fill high places of trust and power. I am willing to extend all pardon—I am willing the Church should do it. But I lift a voice of warning against the adoption of the principle which involves the entire restoration of such offenders, to all the functions and all the powers of the Episcopal and ministerial relations.

And now I have done with this point of vacancy, on the ground of Canon law. And I come to another ground:—According to the Constitution, the Canons and the principles of the Protestant Episcopal Church of the United States, this state of facts has created a vacancy in the Diocese of New York. There are certain principles which as Churchmen we hold, and which I trust we ever will hold. They rest, some on Divine, and some on human authority. Those which rest on Divine authority I trust we ever shall hold. Among them is this, that Episcopacy is an essential feature of our organization—a tangible something on which is to be built up the Christian Church. We recognize it as Divine. We do not feel at liberty to depart from it. All of us, even the lowest Churchmen, believe it to be Apostolic, and of course, since the Apostles were inspired, Divine. I believe it to be Divine. As if to secure effectually against the possibility of departure from this great principle, we have first declared in the Constitution our adhesion to the Prayer Book, including the Ordinal. We have therefore recognized the ordinal, which declares that there shall be in this Church three orders, Bishops, Priests, and Deacons; and Canon I., the very first Canon adopted by our Church, announces the same great truth. We have certain other principles of the human appointment. In the fourth article of the Constitution will be found two things—first, that it was never contemplated that there should ever be a Bishop without a Church; second, that there should never be a Church without a Bishop, when they could get a Bishop. Now, those who contend that there is no vacancy in the Diocese of New York, have to admit the following propositions:—

1st. That B. T. Onderdonk, the present or late incumbent, is the present Bishop of New York—being suspended only—for he either is, or he is not, Bishop.

2d. That by the very terms of the sentence, as it stands unrevoked, he can perform no one act of a Bishop.

3d. That this disability must last as long as this sentence lasts, and it may last for life, and, as I say, according to canon law, must last for life.

4th. That, on the principle fully known when the sentence was pronounced, that no other Bishop could be put into a diocese having one already, this Diocese can elect no other Bishop as long as B. T. Onderdonk shall live.

These four consequences inevitably result from the proposition that there is no vacancy. I propose to try its validity by tracing the propositions to their inevitable results; and then to ask if such results could possibly have been in the contemplation of our legislature. We have passed a law whereby sentence of suspension has been pronounced; and there are those who declare that there is no vacancy;—now what is the consequence of this position? If it is this—a portion of the Church, holding Episcopancy to be essential, nay, more, divine, has actually, by its own deliberate legislation, trampled on what it professes to believe came from God, overturned Episcopacy as to all valuable purposes, and put the diocese, without fault, under an actual interdict. And for whom or for what? For a man who, anxious as he declared himself to be for a canonical investigation,—by the judgment of his peers—on a law which he assisted in making, has been declared by a solemn judgment, which he said himself before it was pronounced must be final, has been declared, I say—utterly unworthy of being permitted any longer to perform the identical duties for which the innocent Diocese is languishing! These are the consequences of that position. How did or could the legislature ever mean to make a law leading to such results? If the interpretation be what they claim it is, then all these consequences follow that interpretation of the law. Now what is the rule in regard to the interpretation of canons, statutes, &c? That if of two interpretations the one makes the law consistent, first, with right reason, and next with the purpose which the legislators had in view—while the other destroys great principles of a fundamental character in the organization under which the law is made—this first is always to be chosen *ut res magis valeat quam pereat*. If of two interpretations, the effect of one is to tear up the principle—that of the other to sustain it, the first is wrong. And now for the application of this principle. You have seen the consequences which flow from the interpretation of those who hold that there is no vacancy. Now look at the other side. According to the view which I entertain of the canon law, and of the sentence as interpreted by it, what do we have presented? All that ought to be: all is natural and all is right. For, in the first place, the guilty is punished, and one object of making laws is to punish guilt: in the next place, the innocent party—the Diocese—is relieved; and it ought to be the object of all good laws to protect and relieve the innocent. And what has the Diocese done to deserve such an interdict? And, in the third place, the great principle of Episcopacy is upheld by such an interpretation. I hold that we are bound by our allegiance to the Constitution to give such an interpretation as will uphold that great—that essential principle. This Diocese may justly say, to those who hold the opposite—"You have shut the door against the election of another bishop: you have said, in effect, that we shall not have Episcopal services performed by our proper bishop." This is what you have done, and it is not what the legislature meant; and if there be another interpretation consistent with the preservation of the innocent, you are bound to adopt it. Now, if you adopt mine, you will reach that result: therefore that is the true interpretation.

Now as to the human principles of the Church: the fourth Article of the Constitution shows that the Church cannot contain a Bishop without a Diocese, nor a Diocese without a Bishop. Now this Diocese must be without a Bishop, so long as that sentence, under that interpretation, stands unrevoked. Consequently the Diocese is under the worst of all interdicts, without having committed the slightest offence. But we are told the Diocese may call upon the Bishop of an adjacent Diocese, and thus preserve the principle. But it is not a question of preserving a mere abstract principle—it is a practical thing that is wanted—the regular, constant service of a Diocesan. The Constitution goes into particulars, and talks of action—of the duty of Bishops, but we can find no satisfaction under its provisions, until the head of the suspended Bishop shall be laid in the grave. I want Episcopacy here, for New York; New York has a right to it, and we must not take it from her by laws which were never designed to rob her of it. Besides, if New York may be thus cut up by the roots, why may not other Dioceses also? The principle involved reaches to them also; and thus we shall have all the principles of the Church sapped and destroyed.

Another objection. It may be said that gentlemen are willing to have Episcopacy by bringing in a Bishop from another Diocese, as has been done for the last two years. What I have to say to that is, that the very proposition to procure the services of a provisional Bishop, abandons the whole of the case. I affirm, and I defy contradiction, that there can be no provisional Bishop under the first or second section of the canon of 1838, when the Diocese has a Bishop of its own, except on the invitation of the Bishop himself, which in this case, of course, is out of the question. The first section uses the phrase, "when the Diocese is without a Bishop," and the second, the phrase, "when there is no Bishop in the Diocese;" and I confess I can see no difference between them—between the tweedle-dum and the tweedle-dee. One thing is certain; when there is a Bishop in the Diocese, it was never intended to call in a provisional Bishop at all; and therefore it is fair to presume that the same was meant in the one case as in the other. But on this subject the canon read opens the door wide for exactly the case of New York—for a Diocese with a suspended Bishop. Before, the provision was for a Diocese in which there was no Bishop at all; now it is proposed to make it apply where there is a suspended Bishop—suspended, too, by his own act. Where is the necessity for that law, if the practice which has existed under the present law be proper? This is introduced to legalize the very action by which, during the last two years, the Diocese has been declared absolutely and unqualifiedly vacant! I do believe, and I do assert, that the conduct of the standing Committee furnishes evidence which speaks trumpet-tongued to the world that there is a vacancy in the Diocese of New York.

But, again, it may be said, if the individual sentenced be the Bishop of the Diocese, it is proper to bring in a provisional Bishop. Now I meet this thus: The Church recognises no other Bishop, besides the primary, except assistant and provisional Bishops. Now here is a Bishop, and a provisional Bishop comes in. The law permits no other except by invitation of the Diocesan. Therefore, he must be a *quasi* assistant, or not act at all; because, when there is a Bishop, no one comes in any other character unless he be invited. Now let me ask, could he have an assistant directly? If the canon law be observed, he could not. I read, upon this point, from Ayliffe's "Parergon," p. 124—"An Archbishop may deprive a Bishop, if his crime deserves so severe a punishment; and it is said in the canon law that a Bishop who is unprofitable to his Diocese ought to be deprived, and no coadjutor assigned him, nor shall he be restored again thereunto." Deprivation here means taking away the exercise of the office; and thus I meet the position by the positive declaration of the canon law.

But there is another objection. We are told by the reverend gentleman from New Jersey, that we are here dealing with something penal, and that, therefore, we are bound to construe it strictly. I was at a loss to perceive the force of the argument, though I think it consisted in a misapprehension. What is the rule of law? It is that penal statutes are to be interpreted strictly, in defining what constitutes the crime, and in fixing the modes of proof. But who does not see the difference between construing penal statutes strictly, when the accused is on his trial, and relaxing punishment as much as possible after sentence has been pronounced? Till the crime has been established, we are bound to presume the accused innocent; and we are to proceed against him by the strict construction of the rules of evidence—this is all right. But when he has been convicted and sentenced, the matter assumes a new aspect. He stands before us then as a culprit, with no claims of right. When he was on trial, he had rights, right to counsel, strict construction of the evidence and the law, the right to make an argument in his own defence before the court. But after verdict found and sentence recorded, that sentence is to be construed by the plain import of its terms, just like anything else, and he must not look for relaxation. We must not forget that the object of the sentence is punishment. I think the true position of the late Bishop of New York is generally overlooked. He comes here as an individual having no claim upon us, further than as we desire to do justice to him and to the church. He can claim nothing whatever by his position; and we must not shut our eyes to the fact that we are dealing with a man on whom sentence has been passed.

There are other grounds on which I wish to argue this point of vacancy; but as the hour is late, and I am somewhat fatigued, I ask the indulgence of an adjournment until to-morrow morning, when I will resume and finish what I have to say,—and will then consider what can be done for the relief of the Diocese.

The house then adjourned until Friday morning.

FIFTEENTH DAY'S SESSION.

Friday, Oct. 22, 1847.—The House met pursuant to adjournment.

Morning Prayer was said by Rev. Richard Masons, D. D., Rector of Christ Church, Raleigh, N. C., assisted by the Rev. Alexander Jones, D. D., Rector of St. Andrew's Parish, Charleston, Jefferson co., Va., reading the Lessons.

After prayers, on motion of Judge Chambers, the message from the House of Bishops, relating to a communication from the histriographer of the church, (Rev. Dr. Jarvis,) was taken up, and a committee of the House appointed to meet that of the House of Bishops.

Mr. Evans, of the Committee on Canons, reported several amendments of Canons, which were ordered to be printed.

Rev. Dr. Croswell moved to take up the message of the House of Bishops, relative to the period of final adjournment, but subsequently withdrew his motion.

Rev. Dr. Henry Mason submitted a resolution relative to certain changes of punctuation in the Nicene creed, which was referred to the Committee on Canons.

An invitation from Mrs. Pelby to visit her exhibition of Scriptural statuary, at No. 411 Broadway, was accepted, and a vote of thanks passed.

Rev. Dr. Hawks then resumed his remarks. After briefly recapitulating the points of that portion of his argument presented on the preceding evening, he proceeded as follows: I shall now proceed to other points.—There is a third ground on which, as I believe, this diocese is at this moment actually vacant. The ground that I took is, that by the act of the Bishop himself, a vacancy *de facto* has been created;—and that in the case of a vacancy *de facto*, it is not only the custom but the imperative duty of the Church to supply it; and further, that this very Church to which we belong, has recognized that principle. It is familiar to all students of ecclesiastical history, that numerous sentences are to be met with, of Bishops who have been deprived of their dioceses—and sometimes wrongfully deprived of them—and that in all such cases, the Church has looked to the spiritual interests of her children, and those who were the members of the Church at large. Thus whilst she, in her anxious desire to do what was right, and protect, as far as possible, all the officers of the Church, not laying a heavy hand needlessly on any, whether ecclesiastic or layman; yet the claims of the great body of any portion of the Church of Christ, were regarded by her as paramount claims, and the Church always so ruled. Instances are to be found where a Bishop has been driven from his see—driven iniquitously, and where his claim to his see was unquestionable; yet in which the Church, impelled by the strongest and most stringent of all laws—the law of necessity—has felt itself constrained to put another Bishop in his place. Now I say that when this vacancy *de facto* exists, the Church is bound to provide for that vacancy, if the vacancy is created by the act of the Bishop himself. It is nothing to this part of the argument to say that it may terminate—that the sentence may be removed, and that the Bishop may be restored. It may be, and it may not be; and I ask what is the condition of the Church if it should chance, that this turns out one of the may not be's. I ask is the Diocese of New York to be made to suffer? What crime has the Diocese of New York committed? Why should it be placed under this most odious interdict? If Episcopacy be valued—if the services of a Bishop be desirable, tell me what is the crime of our brethren? Surely it must have been an aggravated one—one written in large letters that it may be read by all men! What is the offence? Offence? Why, in affectionate allegiance—in fidelity to the gentleman who was placed over them in the episcopate. I know that they deserve all commendation in times past, for I was one of them, and I know what their feelings were. Then they have committed no crime at all. And if so, are the rights of thousands of our fellow Christians to be destroyed?—Are they to be deprived of those sacraments, and ceremonies, and ordinances, in which the episcopal presence is indispensable, for what? To declare that one is still a Bishop, who can do nothing as a Bishop—whose hands are completely tied as a Bishop—who sits, as he was termed, a man of straw, that he may be an object of what shall I say? I will not say either admiration or its opposite, but I will say, an object at least of curiosity, as one of the strangest anomalies to be found in the Church of Christ!

Am I now presenting a position held only by the ancient Church? Am I to be told that this view also is erroneous, because the ancient Church held it? It is indeed strange to my ears coming from the quarter in which I look for intelligent churchmen to hear that that is to be rejected which is ancient! A wise man respects genuine antiquity. I stated last night that it was a guide to truth, therefore if I did rely entirely on that which was ancient, the question is not, shall we reject because it occurred years ago, but is it reasonable? is it founded in justice? is it founded in right? in truth? And if it be, why then, its antiquity, instead of being an objection furnishes an additional testimony in its favor. But such have been the necessities of the Church in all ages that this point in its decisions is anything but ancient. There was a melancholy case occurring within the limits of the Anglican Church which is in point. That case cannot have passed from the memory of all the gentlemen who hear me. Some are old enough to recollect the excitement which the case produced. It was that of a former Bishop of Clogher, in Ireland, whose immoralities obliged him to vacate his see that he might save his life. He fled. An absolute vacancy was created in his Diocese by abandonment, and was put on that ground. In that act the Diocese had no participation whatever. Such was the odium excited by his conduct, that when the see was first offered to another gentleman, valuable as are the livings in our mother Church, it was declined, on the ground that such was the odium attaching to the conduct of this Bishop, that no respectable man could wish to link his name with the Diocese of Clogher. At length, by the lapse of time, that objection was remanded, and another Bishop was placed there, and there he is now, and where is the former Bishop? On the continent, as I learn, a deeply humbled and penitent man, whom we may trust we shall meet in heaven as a man truly forgiven. But the principle was here established. And the Diocese by the act of the Bishop himself was placed in such a condition that its destitution called, from necessity, for interposing and a Bishop was accordingly placed there.

But why need I go to the Church across the water? What have we done ourselves? We have twice established this identical position. I read now from the Journals of the General Convention from 1785 to 1814, page 201. The case to which I allude was one which in a former period of the Church excited so much discussion that many gentlemen no doubt anticipate me in reference to it. It was the case arising on the resignation of Bishop Provoost, and the election of Bishop Moore. In that case I took occasion to remark in passing, the Diocese of New York established for herself most conclusively the great principle that the jurisdiction of the Bishop went from the Diocese—that they granted it in perfect accordance with the sentiment read from Bishop Hobart, last evening. But it is not with that object that I introduce it. I introduce it for the purpose of showing that if the exigency exist—if the case arises, rather than let the whole mass of the Christian Church in New York suffer, the Diocese of New York settled the principle that such exigency justified the appointment and consecration of another Bishop.

It will be remembered that Bishop Provoost sent in his resignation to the Convention, and that the Convention accepted it—that they proceeded to the election of another Bishop, when Dr. Benjamin Moore was duly elected—that at the next General Convention Bishop Provoost addressed a letter to the House of Bishops, begging them to accept the resignation of his Episcopal jurisdiction—that Bishop White, and others, expressing some doubt, not determining with certainty that it was impossible, but entertaining some doubt about the possibility of his then surrendering jurisdiction,—yet proceeded upon another principle to provide for the case. The ground that they took was that as they were uncertain on this subject of jurisdiction, and as the wants of New York must be met,—if Bishop Provoost by his one act would not perform them, they would save the question of jurisdiction as one not judicially settled and constitute Dr. Moore Assistant Bishop. The letters of consecration show no such thing, but the memoirs of Bishop White show that the Bishops were willing to do so. I will now read from the resolution of the House of Bishops in reference to this case:—

"Nevertheless, being sensible of the present exigencies of the Church of New York and approving of their making provision for the actual discharge of the duties of the Episcopacy, the Bishops of this House are ready to consecrate to the office of Bishop any person who may be presented to them with the requisite testimonials, &c.

Thus, the House of Bishops established conclusively, that "the exigencies of the Church" were a sufficient motive for consecrating the new Bishop in a case where the former Bishop, from any cause, any act of his own, obstinacy if you please, infirmity if you please, abandonment if you please, refused to grant to the great body of the Church, what was essential. They did declare that they were ready to consecrate a Bishop. And they did consecrate the new Bishop. Twelve years afterwards, the gentleman who had resigned his jurisdiction, presented himself with a claim to be restored, and grounded his claim upon the doubt entertained of his brother Bishops; and then what said the Diocese of New York? What, I trust, every Diocese in our Union will say, in the preservation of its own independent character. They said that "New York, and New York alone, had the right to take your resignation, because you got it from us, and us alone. New York, therefore, cares not what anybody says;—with all possible respect to the Bishops, New York feels that this is a violation of her prerogatives—still she alone has the power to say whether you did resign, and whether she accepted your resignation. She alone has the right to say whether another should be put in your place. She did so decide; and the Bishops have consecrated another in your place. We have proclaimed to the world, that you have no authority over us—that we recognize no one act that you perform; but that the Right Rev. Benjamin Moore is our Diocesan, to whom we have true and faithful allegiance. He is entitled to our loyalty;—as churchmen, he shall have it." And the whole Church in New York, and out of it, was constrained to act on that decision. I mention that as the case of a vacancy de facto by the Bishop, which vacancy it was resolved, should be filled for the sake of the Church.

But that is not all. There was another case of later occurrence, and quite as reasonable, perhaps, as that to which I have just now alluded. The resignation occurred in 1831—the decision in 1832. Bishop Chase deemed it his duty, for causes not now necessary to investigate, to resign the Episcopate of the Diocese of Ohio.—The Diocese, by a committee entreated him to continue in office. But the Bishop persisted in his determination to resign; and after all negotiation had failed, his resignation was accepted by the Diocese of Ohio, and an election was made of the present Diocesan. The case came up to this House. I remember it was in this very building that the Convention met. A variety of arguments was presented in the case. No question that has arisen in our Church can draw forth more argument, and I will add, more of talent, than were exhibited on that occasion. The difficulties in the minds of many were connected with the subject of jurisdiction. But what did the House finally do? As we all know the testimonials of the Bishop-elect were sound, and he was consecrated Bishop of Ohio. On what ground did the House act in that case? I shall show those grounds; and the House will pardon me if I occupy a little time in doing so. In the House of Deputies, the report was made on the 10th of October, 1832, and was signed by our reverend father in the Episcopate—Bishop White, as Chairman of the Joint Committee. That report contained the following resolution:

Resolved, That the Right Rev. Philander Chase, by his letter of resignation, adjourned to the Ohio Convention, and by his removal from that State to the territory of Michigan, has effectually removed and vacated his episcopal charge of the Diocese of Ohio, and that the episcopacy of the said Diocese was in fact vacant previous to the 5th of September, 1832.

That was the first action. Then there was a majority report signed by the Right Rev. Dr. Delancey now, then the Rev. M. H. Delancey, which also re-organized the principle, but wholly objected to its immediate application. They said in the resolution "that as the Diocese of Ohio has been without episcopal services since Sept. 9th, 1832, and is at present destitute of the same, it is the opinion of this Convention that unless waiting differences, &c., be settled before the 1st of May next, the Standing Committees of the different Dioceses, ought to sanction the election of any qualified clergyman who may be elected to the office of Bishop of Ohio after that date."

Both parts of the Convention then, recognized the principle. The certain resolutions were offered in the House by the Rev. Mr. Gibbs, delegate from South Carolina, to the effect that "Right Rev. Philander Chase having reliuquished and abandoned the Episcopal charge of the Diocese of Ohio, and removed from the said State, this House does consider the Episcopate of Ohio as vacant. And, whereas, the Diocese of Ohio having by the direlection of the said Bishop, and whereas, in the opinion of this House, the welfare of the Church requires that the State of Ohio should not continue longer destitute of the services of a Bishop, therefore,

"Resolved, That this House will now proceed to consider and sign the testimonials in behalf of the Rev. Charles P. McIlvaine as Bishop of Ohio, aforesaid.

"Resolved, That it is not the intention of this House by any proceeding on this occasion to sanction the principle that a Bishop can resign of his own will, with, or without the consent of his Diocese."

These resolutions were adopted, and the House of Bishops therefore proceeded to the consecration of the Rev. Mr. McIlvain as Bishop of Ohio, and in this resolution they referred to the passage of a Canon providing that Bishops should not resign except by passing an ordeal so difficult as almost to preclude the possibility of resignation.

I hold, therefore, that so far as this principle is concerned, we have decisions from abroad—decisions in early times—decisions in modern times—decisions in the Diocese of New York itself—decisions of the House—that the principle is a sound one. I hope that it will be borne in mind that in presenting my proposition I insisted that the Diocese was *de facto* vacant by the act of the Bishop himself. If the Diocese of New York had any instrumentality in preventing him from the exercise of Episcopal functions, instead of saying that it was de facto vacant I should say that it was vacant neither de facto nor de jure, and that the Diocese of New York deserved the severest reprehension which the Canons could bestow. But when it is his own act—when his own conduct has produced it—I do say that the Diocese of New York is entitled in all justice to more consideration than the offending Bishop, who by his own act has brought them under such a temporary interdict.

Perhaps I can illustrate my position by deducing an analogy from a celebrated case in civil history.

The House was familiar with the fact, that when the civil revolution took place in England, in 1588, James, the reigning monarch, abdicated the throne and left the kingdom without a king. Now, monarchy being the form of government of Great Britain, a king was an essential feature in the preservation of that government. Without a king, England ceased to be a monarchy. And what was done? Why the States of the realm in Parliament assembled, called on William of Orange, who had married James's daughter, and placed him on the throne of England, with full power and authority as King of England, and the title he ever had, and a better one he could not have had, was an act of Parliament. No blood put him there. He was put there by the will of the people of England, because they fell back upon the first great principles of all government. They fell back upon those laws which necessity had established, and they saw before them the alternative, either to cease to be a monarchy, or to have a king. They said—we do not wish to cease to be a monarchy, and therefore let the highest power known in the realm, call in a king.

Now, this is a sound principle. It is applicable to the present king of the French. He was put upon the throne in the same manner. And now what would I deduce from these cases? Why this, that if in human government of the earth—earth, for kings and their subjects alike, crumble into dust and become food for worms—if for the preservation of the great principles of human government, men fell back in their necessities upon the stern rule, and act upon it, a fortiori, in a kingdom which is not of this world, the ruler of which, for the time being, we hold to be higher than any king, because he is invested more solemnly with far more sacred functions, the right existed in a still stronger degree. I think the analogy is a strong one in support of my position.

I now pass to another ground on which it will not be necessary for me to dwell long, as it was occupied by my honorable friend from Virginia yesterday. This is the common-sense view of the subject, as he was pleased to term it, resting upon obvious and known principles of common law. And here I would very briefly advert for a moment to a remark of my honorable and most esteemed friend from Maryland, that he thought the application of the principles of common law was not desirable in decisions of the Church. I and he know that sage of the law who wrote—"The wisdom of the law exceedeth the wisdom of any man." I hold that in the common law there are a multitude of principles so obviously founded upon right reason, clear justice, and common sense that they are valuable principles whether they be embodied in that code or in another. It matters not where we find them, for common sense is not confined to any parallels of latitude; belongs to no particular profession, and is valuable wheresoever met with. I cannot, therefore, subscribe to the idea that we may not get light even on this subject from the doctrines of the common law, and if I were to furnish a practical illustration that would most effectually contradict the view entertained by my excellent friend from Maryland, (Mr. Evans), I would turn with pride and point to that gentleman himself. Here is an illustration of the fact that common law well understood, united with principles of piety, may be made most advantageous in the discussion of some principles of present interest to the welfare of the Church.

My learned friend from Virginia took up a case in common law and commented on it, which gave birth to the observation of my friend from Maryland. I shall not follow the gentleman from Virginia in taking a case, but I take the great principle, which, whether it be found written in the books in totidem verbis, or not, is a principle too plain—too clear to be controverted, and is indeed, perhaps, amongst those principles which are so plain as to be axiomatic, and therefore not always to be found in the books. No man expects to find in a treatise on mathematics that two and two makes four. You must assume something as the basis of a science. I turn then to the common sense view of this subject, and I ask what is an "office?" The word, as who all hear me know, is derived from the Latin, and in the strictest sense of its origin, it means "duty."—"Duty" and "office," are therefore co-relative terms. "Office" implies "duty." Discharge of duty results from exercise of office. Now as it is perfectly plain that he has held the office, and I will admit if you please, the office of a Bishop has the extensive right within certain limits of performing certain duties, no man can lawfully interfere with him; a part therefore of his office would be implied in the definition that is enforced upon him exclusively the right to perform certain duties. It is privilege. Now e cou verso if this right to discharge certain specific duties is necessary, part of exclusive ownership of that office, it follows that he who cannot perform the duties is out of the office. It is as clear to my mind—I may be wrong, but to me it is as clear as the sun at noon-day, if "office" confers the exclusive right as it does in the case of a Bishop to perform certain duties created by it, the act of the Bishop himself removes him ipso facto from the office. I cannot now say whether the removal is temporary or permanent, but I say it does create a removal out of the office. Undeniably does it for "office" and "duty" are co-relative terms.

I do not wish to trespass longer on the attention of the House than I can help. I come to the conclusion that the Diocese is vacant on the ground,

First, that the canon law is the guide to the interpretation of our canon and that that rule shews that it is vacant;

Secondly, that it is vacant under a fair and proper interpretation of the constitution in support of the great principle of episcopacy;

Thirdly, that it is vacan de factn; and

Fourthly, that it is vacant on the ground of common sense.

Now let me consider the objections which I have heard made, and which are entitled to most respcctful consideration. One objection is as natural that we cannot wonder at hearing it, for it strikes the mind of every man who does not examine the subject technically. If suspension in its operation may be made to work the same effect as degradation, it is objected, that the term degradation should not be continued. To that I now wish to speak. There are several reasons why the term should be continued.—I speak with diffidence, but I shall state why my mind has reached that conclusion. It is obvious, under the view which I have taken of the canon of suspension, that there may be a suspension limited in express terms to a given time. It may be a proper punishment—nay, the only punishment in certain cases. There is a large class of cases in which suspension does not work the effect of degradation, and hence the distinction—hence the propriety of the two terms to designate the two grades of punishment.—I did not say that suspension necessarily implied all the consequences of degradation, nor do I say so now. Are gentleman aware of all the consequences resulting from degradation and partial suspension? Do they suppose the case proven in all things to be the same? If they do they err. The term suspension was retained for the benefit of the clergy—in favore dericorum; and let me tell you that in some cases degradation involves privation of all common privileges of Christians, and are in effect, excommunication. Now no sentence of suspension necessarily has that result, for it is a fixed rule that unless excommunication be added to the suspension it does not ex vi termini follow. But that difference is further apparent in that though we find in the earliest legislation these three punishments, we yet find after that period of time while they were in force still, cases of perpetual suspension, and I read last night one of those—the case of Milesius. But I believe, for the subject is one involved in some obscurity, I believe rather that the distinction at a much later period of time was founded on principles which I have no desire to approve, and was connected with the differences between the ecclesiastical and civil courts.

It is not therefore to be hastily inferred that because the two terms are used in our canons that therefore they must be so construed of necessity that one of them can not produce an effect which in very many particulars is precisely similar to the effects of degradation. Degradation involved in the early Church a variety of ceremonies, which could not, would now as was well observed he deemed ludicrous, but also spiritual privation and suspension did not.

Other objections have I urged, and I advert to them because I really want to have the whole subject brought up. Some of them have occurred to my own mind. It is said that the Court did not mean to pass a sentence that was equivalent to perpetual suspension. What the Court meant is to be gathered from what the Court said. I affirm that the only rule by which this or any other body can now determine what the Court meant is by referring to the sentence of the Court—for the sentence must be construed by itself, as was most correctly stated yesterday by the hon. gentleman from Maryland. You cannot go beyond that sentence, or behind it, to get its meaning. What I contend for is, that in the true construction of that sentence of suspension, if the canon under which he was tried used the term suspension in the only sense in which I can understand them to have used it, to wit, in conformity with canon law, then the term suspension, as used in the sentence, unaccompanied by limitation as to time, is perpetual. What the Bishops meant or did not mean has nothing to do with the settlement of this question, except as we gather it from what they said in the sentence.

I hope I need not labor long to prove the fallacy that we are at liberty in any case of judgment, pronounced by a proper tribunal, to go behind the sentence and ask the judge what he particularly meant. In that case we should be subject to the worst of all slavery—Misera est servitas ubi jus vagum et incertum. But was it lawful, and I am thankful it is not, to enquire what the court did intend, then I might tell this House what I have been authorized to tell it—that there are those who would make a very different assertion from that, that the Court did not intend perpetual suspension. But with that we have nothing to do. I wish it not to be pressed into that service; but I insist that we abide by that sentence.

Now I leave the question of the condition of the Diocese to come upon the other question on which I will not detain the House so long. I have labored to show that the Diocese is vacant, because if I succeed in establishing that, I succeed in showing what we can do. Now what are our powers? There are but three classes of power belonging to any branch of government. What are ours? Are we a judiciary? No, sir; therefore I differ from the hon. gentleman from Vermont, in the idea he entertained, that the supreme councils of the church could review the case. Nor at all. We sit not as a court. We sit as a legislature. Then, as a judiciary, we have nothing to do. Now are we the pardoning power, and may we act as an Executive? That there is a pardoning power in the Church, is a true principle—blessed be God. But fortunately for us, we have no occasion to declare where the pardoning power resides. Assuming that it belong to us, we have not been under the necessity of stating who shall exercise it. We have now a law providing that it shall be confined to the venerable fathers in the other House. There I am perfectly willing to leave it. I have no objection to place it there, or in fact anywhere that is deemed desirable by a majority of the Church; but until it is placed somewhere, it is casu omissus, and it is nowhere. Therefore this House cannot sit as a pardoning power. What is left? The legislative and advisory power merely. That we can exercise, and that we ought to exercise in a manly spirit, and according to the eternal principles of right and truth.

Is the Diocese of New York vacant or not? If it be, there is something which we can do. If it be not vacant then I rise to enter my solemn protest against any action interfering directly or indirectly with the rights of its Diocesan. To this complexion every proposition must come at last. We cannot escape it. As a legislative body then, we are to settle the question. I object entirely to the expedient of this Joint Committee; not because the first canon presented is not a necessary and good one, considered itself; not because we should not provide before we separate for the future of some such enactment guarding it by proper restrictions. But pass the canon, and do you relieve New York? Not unless New York declare a remission of the penalty of the Bishop. If not, how is his condition improved? That paper does not reach it. But in connection with that another provision is made, that we shall open the door wide enough for the introduction of a provisional Episcopate. I object in toto to that principle. The provisional Episcopate was made not to sustain a convicted Bishop in his place until years of penitence might restore him to confidence and to his office; but it was made to supply the exigency of a diocese for a time, and a time only. The law declared that in no case could a Convention or standing committee call in a Bsshop but in an exigency that determines almost with the act itself; and on the other hand authorized the Convention of the Diocese to make arrangements which gave to this individual Diocesan powers while he remained. But we now find a third provision proposed, and what is it? To open a door through which a convicted Bishop might enter—whereby he who has subjected himself to the censures of the Church and is lying under a sentence of the Church, shall be kept in that condition by providing by this canon for the introduction of some one who as it were shall keep the place warm for him until by the intervention of the first, he shall slide to his former position. I protest against it. I do not say that it was in the minds of the Committee. No—no. I respect them too much to say that, but I say that must be its practical working, and therefore I say it is dangerous. I do not even say that in this particular case any effort has been made to that end, but I spoke of its danger in general. That it is not a remedy for New York, I am very, very certain.

What remedy, then, can we provide? The gentleman from New York has prepared a remedy in the proposition submitted yesterday. His remedy is this: first, that all sentences of suspension of a Bishop shall terminate at a particular time. To this, in itself considered, I have many objections. I stated yesterday a case in which it would be utterly impossible to establish this principle. I put the case of heresy. How can you say that at the end of three or five years the sentence can in that case terminate? Is there any security that in that time the convicted individual shall cease to be a heretic? None at all. Therefore any such provision is out of the question. But I ask *cui bono?* The gentleman himself said that were the question proposed to him he would say that he did not deem it expedient to restore this individual. Am I wrong?

Rev. Dr. Forbes—What I said is this—and I do not rise now to fritter away one single jot or tittle of any word or sentiment which I have heretofore expressed in in this House; these sentiments were deliberately formed, have been consistently acted upon, and they will be pertinaciously adhered to—what I have asserted is, that in my judgment, the resumption of his duties by the Bishop of New York at this present time is not, in itself, a desirable thing. Will you allow me a few words more? [Dr. Hawks bowed in acquiescence.] But I do think and believe that when compared with the other alternative presented to my mind, namely, that of violating settled principles of law and justice, in order to get rid of a perplexity—of, in fact converting the sentence of suspension into one of degradation, then, I say that the evil of violating such settled principles of law and justice, would, in my mind, be a far greater evil than any which could result from the mere resumption of his duties; for in that case the evil would die with the man; in the other case, the evil would go on from generation to generation. I know no act, sir, which is more likely to unsettle the minds of every man in our communion—and these minds by no means the least earnest, the least intelligent, the least zealous—in the very stability of the church itself. If, indeed, that will be perpetrated, then we are doomed to run the race of all the sects, and have every question in the Church settled by popular clamor without. I trust I am now understood.

Dr. Hawks—I am very happy to hear the gentleman's explanation.

Dr. Forbes—I am greatly indebted to the courtesy of the gentleman. It has been suggested that I should state that the opinion I expressed yesterday, was wholly my own. I did not speak for any one but myself, and I claim for the sentiment more sympathy and respect than I have yet received.

Dr. Hawks—I am very happy to hear the gentleman's explanation; and if it is in my power by any act of courtesy which I would not withhold from any gentleman, and particularly the gentleman from New York in the relations which we sustain in this debate, to give him an opportunity of explaining what he said—what he meant—for whom he was authorized to speak. It is all right that the House should understand these things, and all I regret is that he should have alluded to an opinion entertained by some that this canon was made purposely for the trial of the Bishop of New York. He was with me in the Committee on Canons and knows how far that opinion is founded on truth. He participated in preparing the Canon.

I go back to the argument. I stated one objection I had to it. I ask you "cui bono?" If in the view of the gentlemen it was inexpedient to restore the Bishop, what then is the object? Is it to reflect on the Court who sentenced him? But there is another ground. You may make what law you please on the subject of this sentence, but after all you cannot make a law which alters what that sentence meant at the time it was passed, you cannot reach it in that way. That is indeed ex-post facto legislatin. Therefore I lay aside the propositions of the gentlemen for New York. They do not meet the case.

Now episcopal services are what are wanted. Our law allows them in three modes, by a provincial Bishop—by an assistant Bishop and by a Diocesan Bishop. No other modes are provided by our law. Let us look at it in order to see what we can give. Can we give a provincial Bishop? No. If we did we violate the rights of the Diocese of New York, and violate them fundamentally. For I said and am prepared to show that when a vacancy is created by suspension for a time, it does void jurisdiction and that jurisdiction comes back to the hands of those from whence it came. The jurisdiction in the province of Canturbury belongs to the Archbishop. When a vacancy occurs in the Episcopate what becomes of the jurisdiction? It vests in the Archbishop as the representatives of the king who in his turn is the representative of the laity.

The case of Marmaduke Middleton, Bishop of St. Davids, seems to me at this moment as one in point.—How is it in our own country? The doctrine is that if a temporary vacancy, if you please, be created by suspension, the jurisdiction passes from the suspended Bishop unto whom? It goes back unto those from whom it was derived—the people of the diocese. In this connexion I refer to the case of Lord Keeper Williams, the last ecclesiastic who was ever permitted to exercise the office of Lord Chancellor of England. He was Lord Bishop of Lincoln. His name is somewhat notorious in history. Collier in his Ecclesiastical History, Vol. VIII., 157, has an account of the suspension of Bishop Williams, a benificiis et officiis. When the sentence was inflicted, "his jurisdiction fell to the archbishop."

Of course the archbishop had a right to send another Bishop into his See. This proves conclusively, that when a bishop is perpetually or indefinitely suspended, he may appoint another Bishop to exercise his jurisdiction. For Bishop W. was "imprisoned during the King's pleasure," and so was punished indefinitely. Yet, while suffering an indefinite punishment, his jurisdiction was wholly lost, and another bishop could exercise it.

Well, what does that ecclesiastical wag, but most pious man, old Fuller, say of this case? In his 3d volume, page 202, he says that Williams was "sequestered from all his spiritual preferments." That this matter of the Arch Bishop's right may be made clear, permit me to refer to the decision pronounced by Chief Justice Holt in that case. As we have no Arch Bishop, and are not likely to have one—I trust in God we never will!—where does this jurisdiction repose? I know no better principle than to send it back whence it came; and as New York has affirmed that doctrine she can hardly complain it we adopt it. Now, can you elect an Assistant Bishop? Assistant to what? Here is a sentence in force under which the Bishop can do nothing. Can you elect an assistant? an assistant in what? In doing nothing? I have heard of a man having nothing to do and being very faithful in doing it, but I have never heard of his having an assistant in the laborious occupation! But gentlemen say, "an assistant to the Diocese." Turn to the canon, you find that he is assistant to the Bishop, and that such a thing is not known as an assistant to the Diocese. Suffragans come in and help the Bishop but they are not assistants to the Diocese.

But let us go farther. We bring in the assistant. The Bishop is inhibited from the exercise of any of his functions. He can do nothing. So in effect the assistant is the Diocesan. In case of restoration of the suspended Bishop, what becomes of the assistant? He is at once degraded and is virtually punished for his fidelity in doing his duty. Is this reasonable? What gentleman would wish to accept the office on such conditions?

Again, suppose the assistant should happen to be like the principal. Suppose it should turn out "like master, like man," and that the assistant is suspended. Are you going to call in another assistant who is to assume the duties *pro hac vice* and to be degraded, being the deputy of a deputy? Is this what you are going to do with the Episcopal office? Oh! this would be Apostolical succession!

There is but one thing left, and if that wont do, this House has nothing that it can do. A diocesan is the true remedy, and in that I am borne out by the authorities. That is the permanent remedy which the Special Committee of the New York Convention of 1845 proposed.

I have now finished what I have to say by way of argument. A very few moments I trust will be allowed me by the House, while I say, in the first place, that I hope I will be understood as doing nothing more than lighting my little lamp, and holding it up amid the darkness around me, if perchance through the feeble glimmer of its beam, it may shed some illumination on a subject certainly obscure. I owe it to myself to say, that while very confident in the opinions which I have expounded here, I am equally confident that I am a poor, fallible mortal. I may be wrong. With the best intentions a man may fall into error, but God is my witness, I have endeavored to see the matter properly and truly, and as such to lay it before the House. If the House do not concur with me, I have nothing to say. I shall acquiesce with entire satisfaction in their opinion, whatever it may be, and in the action founded on that opinion. I shall not quarrel with the legislation of the Church. I shall think it possible that wiser and better men have seen the thing in a clearer light than I have seen it. But in my soul do I believe, there is but one principle on which you can settle this case truly, and that is that the Diocese of New York is vacant, and if it be I pray that no prejudice may prompt us to turn our becks upon this feature, and placing our feet upon the shifting quicksands of expedients, remove them from the solid rock of principle. We are no longer in safety unless we abide by principle, and follow truth where ever she leads.—There is nothing that is unchangeable on this earth but truth; and the reason why truth is unchangeable is because God himself is nothing but eternal truth.

If the law saith this, I call upon gentlemen, clerical and lay, to relinquish their prejudices and be willing to declare that thus the law has said. If they conclude that I have not interpreted the law correctly, be it so. But if I have, may I not hope that the convictions of those who so believe, will be carried out into action, despite their personal feelings, and that they stand upon the eternal, immovable foundation of an adherence to principle?

We are not safe one moment after we consent to abandon law. Those gentlemen who are familiar with the administration of human justice, know full well the advantage of such adherence to law. And I doubt not that though the eulogy came not from a jurist but from a divine, that there is no intelligent jurist, layman though he be, who will not yield his ready assent to the known, the eloquent, the forcible tribute which is given to the law by a divine of our own church; of law, there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world; all things in heaven and earth do her homage; the very least as feeling her care, and the greatest as not exempted from her power—both angels and men and creatures, of what condition soever, though each in different sort and manner, yet with all uniform consent—admiring her as the mother of men, of peace and joy.

Mr. Evans, of Maryland, then rose to address the house. There being a good deal of noise and confusion, many members leaving the house, a delegate suggested that the house take a recess for half an hour, to afford the house suitable relaxation.

Mr. Huger, of South Carolina, seconded the motion, with a few remarks in his very peculiar style, which occasioned some merriment.

The Chair thought the advantages of a view might already have been gained.

The question being then put, it was lost.

Mr. Evans then proceeded to remark that he reverenced antiquity as much as any gentleman, but he was not accustomed to seek for antiquity among the mediæval writers or the followers of the Council of Trent. Antiquity was the best guide in theology, but not upon all other subjects. The use of language must be taken from the moderns. The interpretation of the language of our canons was best sought in the canons themselves, and in the judicial decisions of our own bishops. Undoubtedly it was a sound general rule that words of art were to be interpreted in their technical sense, but if the intention of the user was clearly otherwise, the intention became the rule of interpretation. The word here was a technical word of art of the common law, which signified whatever was entitled to inherit to another; but if an estate was left by will to a man and his heirs, and failing his heirs, to his brother, the word was understood to be used in its popular sense of posterity, because the heir of the devisee in the technical sense could not fail being the brother. So in this case the canon spoke of suspension as a thing different from deposition, and therefore if it signified the same thing in the canon law, it must be understood to mean something else in this canon.

Suspension was not a word used in the early history of the Church. It did not come from the native language of the Church, the Greek, but the Latin. It belonged to the Romish canon law, a wonderful system of human skill, originating in forgery, and containing much that was good and much that was evil. The whole system, however, belonged to a church whose organization was fundamentally different from ours, founded on the principle of an *episcopus episcoporum*, our bishops were always equal. The same law could not suit such different constitutions. He contended that the Bishops had declared that the suspension in this particular case was not deposition, and we were precluded from entertaining that question.

As to jurisdiction, it was clear that it did not come from the people. A Bishop had no jurisdiction before consecration. Election was a *conditio sine qua non* of jurisdiction, but it does not give it. The case of translation was an exception which proved the rule, for then where there could be no consecration, confirmation was substituted. The Bishop of Wisconsin had no jurisdiction on the day before yesterday. Yesterday he had been confirmed. The case of Illinois was anomalous. Our Missionary Bishops and the present Bishop of Michigan had jurisdiction, yet they had never been elected by their dioceses.

It was not true that jurisdiction was so forfeited by any fault that the Convention could expel the Bishop except by a proceeding before a court. When that was done the court decided how far all jurisdiction should be effected, and to that decision they must adhere. They could neither increase nor diminish the sentence. If they could increase they might diminish. The sentence settled the guilt for the purposes of this law, but it also settled the punishment of that guilt. The suspension was not the act of the Bishop but of the court. It was not guilt but punishment, and could not be made the ground of forfeiture beyond the extent to which the sentence itself provided a forfeiture.

Rev. Dr. Ogilby, after the close of Mr. Evans's remarks, (who spoke in reply to Rev. Dr. Hawks,) on the afternoon of Friday, rose in reply to the elaborate speech (of four hours and a half) of the same reverend gentleman. He said that, as he proposed to review somewhat at length the argument of the reverend gentleman from Louisiana, he had prepared some citations from authorities, with which he should be obliged to trouble the house. In doing this, said he, I shall make no professions of diffidence, for I hold that every man in this convention is bound to do what he may towards the settlement of the embarrassing question before us, in relation to the affairs of this great diocese. I put myself forward in this discussion only because that, by the authority of those who have the power, I have been honored with a position which makes the study of such topics as are now under consideration peculiarly familiar to me; and I trust, therefore, that I shall not be regarded now as trespassing upon the attention or the time of the House. Moreover, I shall avail myself of the request with which my reverend brother from Louisiana set out; that the house would grant me their indulgence, if, in the course of the remarks I have to make, I shall speak plainly and earnestly upon the matters before us. The reverend gentleman, sir, has argued two great questions. In the first place, what is the position of the Diocese of New York under the existing sentence of suspension? And in the next, what are the powers of this body to afford relief? I, sir, shall endeavor to follow the reverend gentleman in the course of the remarks I shall make, not undertaking to touch every point, having been ably anticipated in some matters I would have noticed, by the learned member from Maryland Mr. Evans. I am glad, sir, that the reverend gentleman from Louisiana has put this question on the true ground; and has assumed that we must seek aid in interpreting the term "suspension" in our own canon from the Canon Law of the Church at large, and the testimony of approved canonists. At the same time, sir, it must be borne in mind that all words are liable to change of signification in the course of time, and htechnical terms, though less liable to change than others, are not absolutely stereotyped. There are various languages having different words to express the same idea, in each of which time may give a new sense to our ancient term. Therefore, sir, in investigations of the sort now occupying our attention, we are to look at *res, non verba*. I agree, sir, with the reverend gentleman in his deference to the teaching of antiquity; but antiquity, I think I shall be able to show, knew nothing whatever of the word Suspension, in reference to ecclesiastical censure, I am sorry, sir, that my reverend brother took offence, at "what he was pleased to call the "sneers" thrown out in the course of debate at the antiquity of Salamanca; and I was surprised withal, that he made Salamanca his text from which to preach us a homily on reverence for antiquity; aye, sir, and for *Primitive* Antiquity! And what, sir, is the antiquity of Salamanca? Why, sir, that University was founded in the year 1222. Its foundation was coincident with a remarkable era in the history of Popery, INNOCENT the Third, (who did more than any other of the successors of Gregory VII to develop those principles on which the Papal aristocracy rested,) having died just six years before. And, sir, the character of this University appears to have received and retained the impress of the age. For we read that "the Professors principally exercise their faculties in keeping down the minds of the pupils to that level of inquiry and pursuit, which is best calculated to secure their attachment to the existing civil and religious institutions of their country. Every inquiry which may have a tendency to lead them from this beaten track is most carefully checked; and even books of science, if composed by foreigners, are viewed with a suspicion that there may be in them some latent heretical tenets. Under such restraints, it is not wonderful that the orthodoxy of the University of Salamanca is unimpeached."

We see then, sir, that Salamanca has about as much claim to Primitive orthodoxy as it has to Primitive antiquity. So that I would lose little, were I forced to admit, while I am not, as will appear presently, that the authority of Salamanca was against us in this matter. So much, sir, for Antiquity, so much for Salamanca.

I proceed, sir, to notice the Rev. gentleman's first argument to prove that the Diocese of New York is vacant, deduced from the *ancient* Canon Law. He claims, sir, that in the early Church the sole and original penalty for grevious clerical offences was "suspension," and that this suspension was final, voiding jurisdiction forever. He soon went so far as to affirm that "degradation" came after and out of suspension; that is to say the *major* was included in the *minor*, the greater came out of the less. This, sir, I submit, would be a very good kind of argument at Geneva, being precisely parallel with that which the advocates of parity follow, when they derive Episcopacy from Presbytery. Is this, sir, another specimen of Primitive antiquity?

Now sir, I affirm and shall proceed to prove in direct opposition to the Rev. gentleman's unsupported assertion, that the original punishment in the early Church was *degradation*, not suspension; that so far from suspension being the earliest ecclesiastical penalty, it was not so much as known to the first ages of the Church; and that it came in at a later period, upon the declension of the Church's zeal under the influence of prosperity, and upon the consequent multiplication of minor offences and of cases of discipline consequent thereon. In the period of persecution, when there was small temptation to the worldly to enter the Church, and when all its members were kept ever on their guard and under salutary chastening, the Bishop who offended against purity might well be deemed worthy of deposition from the Ministry. But when the state of things changed, the Church made due allowance for that change, and graduated her penalties according to the measure of offences; for she at least has never had a Draco to establish for all crimes a horizontal line of punishment. Thus suspension was gradually introduced as a lower grade of punishment than deposition, differing from it in this respect, that suspension *ex vi termini* involves a limit expressed or implied, and suspends from the exercise, but does not deprive, of office and jurisdiction. That this is so I proceed to prove on the showing of Beveridge, who is by common consent the *facile Princeps* of English Canonists.

"As laymen when convicted, of crimes, are excommunicated, so delinquent clergymen are deposed by the canons; that is, they are shut out from the performance of sacred functions, and are reduced to the order of laymen. This penalty inflicted upon clergymen, the ancient canons call *cathairesin*, etc. And thus, indeed, in the Primitive Church, he who was once deposed could no more celebrate the Eucharist, nor be again admitted to the grade among the clergy; but was ever reckoned among the laity. But afterwards a certain partial or temporal deposition was introduced, inflicted upon the clergy only for a certain time, which, however, came to be called usually not deposition, but suspension." * * "When the term suspension is not employed, a time is fixed during which they ought to cease from their functions, [which shows that "suspension" always of itself implies a limit."]—See Beveridge on the 11th Apostolical Canon, and the authorities there cited.

Now, Sir, I ask, how does the testimony of Beveridge sustained by proofs from the canons of ancient Councils, agree with the assertion of the Rev. gentleman from Louisiana, that "suspension" was the original punishment, and that it had no limit? No two statements can be more contradictory; and the one is proved while the other is not. This "penalty" (viz., of being "deposed," of being "shut out from the performance of sacred functions, and reduced to the order of laymen," the ancient canons call *cathairesin*, that is "a pulling down," or deposition; or as it is in others of the canons cited by Beveridge, "a pulling down from one's grade," that is *degradation*. This is the original penalty. "But *afterwards* a certain *partial* or *temporal* deposition was introduced, inflicted on the Clergy only for a certain time, which, however, came to be called usually, not deposition, but "*suspension*." Such is the support, Sir, that the ancient canon law gives to the two propositions of the Rev. gentleman from Louisiana, touching suspension, viz., that it was the original penalty of the Church, out of which degradation arose, and that it was unlimited and final in its scope and operation.

Before proceeding to consider whether the modern canon law makes more in favor of the Rev. gentlemen's first position—ancient canon law does, permit me, sir, to say in passing, that the ancient Church defined her final sentences, not so much by the use of technical terms, as by the enumeration in detail of the general particulars, as has already been shown by my learned friend (Mr. Evans) who read that part of the Synodal Epistle of the Council of Nice, that relates to the sentence of Meletius.

And now, sir, let us see what light modern canon law sheds upon this subject. The Rev. gentleman has quoted, sir, from various authorities, which he has gathered together in the course of his three years investigation of the subject; and he claims that these authorities sustain his position. I regret, sir, that he did not bring his authorities here, that we might see the original text or context, for although I have access to one of the largest and best theological libraries in the country, I have not been able to find in it any one of the authorities he has cited. But, sir, taking them on his own showing, I affirm that they do not in the least degree tread upon or militate against the position which I took in my brief argument of yesterday, that suspension always involves a limit, and does not void jurisdiction. I may express my regret by the way, that the Rev. gentlemen did not see fit to notice the authorities from the canon law of our mother Church, which I quoted from the books, and which I submitted to his inspection. But, sir, let that pass. As to his own authorities they only establish, what no one pretends to deny, and what is as familiar as his alphabet, to every Canonist, that suspension is distinguished as to its *scope* into *total* and *partial* (according as it suspends from the exercise and enjoyment of all functions and prerogatives or only of a part of them;) and again as to its *duration* into *temporary* and *perpetual*, (according as it has a fixed limit of time, or indefinitely till removed at the pleasure of the competent authority.)

And here let me call the attention of the House to a distinction which obtains among the Canonists between *Censura* and *Pœnæ*, the former of which has an undefined, and the latter a defined duration assigned to them. To the former belongs that "*perpetua suspensio*" defined in the Salamanca tract book, quoted by the learned gentleman (Mr. Rives) from Virginia, as well as the perpetual suspension referred to by the authorities of the Rev. gentleman from La. And here sir, I will, with the leave of the House, quote from the celebrated Canonist, Van Espen, a passage or two, which will serve to illustrate the distinction and difference between *Cen Serva* and *Poenas*, and also to establish the fact, that suspension of whatever kind implies a limit, near or remote, defined or undefined, absolute or contingent.

"That suspension may also be limited to a fixed and determined period, the Doctors teach in common.

But this distinction cannot by any means be understood of suspension, as it is a censure. For a censure, which is chiefly inflicted with a view to correction, and in order to subdue contumacy in crime, cannot be limited to a fixed, determined period, but always has an indetermined period of duration, namely, until he who is bound by the censure shall have ameuded his life, and submitted himself to the authority of the Church, and made satisfaction thereto.

But suspension which is inflicted by way of penalty, or of penance for an overt act of trespass, is usually limited or extended to a certain time, in proportion to the offence to be atoned for by the penance, or to be punished by the penalty.

The suspension inflicted by way of penalty, and limited to a fixed time, expires *ipso jure*, when that time has elapsed; so that the suspended party can, without any previous absolution, resume the funtions from which he had been suspended; when, however, he has been bound by a valid censure, he can by no means be released except by absolution, (i. e., formal remission by the proper authority.)

Suspension, as distinguished from other censures, is defined, "an ecclesiastical censure by which a clergyman, for his own fault, is prohibited from the exercise of the ecclesiastical power, which he has by virtue of an ecclesiastical benefice or office, either in whole, or in part, or for a time, or perpetually.

Suspension from office, simply expressed, imports suspension from the exercise of order and jurisdiction.

As suspension simply expressed, is restricted to no certain act of order or jurisdiction, so also it is limited to no determinate time; but it is taken to be perpetual; at least negatively, that is to say, since it has no fixed period of duration assigned to it, it will continue until it is removed by him who has the power;—which undefined limit is always silently included, and in this, suspension differs from deposition, which includes a certain, posive perpetuity of duration.

Of what nature or extent soever suspension may be, it is certain that it only suspends a clergyman from office or benefice; that is to say, hinders him from freely discharging his office, or exercising the functions annexed to it, or receiving the emoluments thereof: but it by no means deprives of office or benefice.

This very suspension, although it is limited to no certain limit of duration, nevertheless denotes of itself a certain remissibility and hope of restoration, inasmuch as it leaves the office and benefice to the clergymen entire.—Van Epen, Juris Ecclesiastici Universi: Pars III, Sec. IX., et Censuræ Eccles.—Cap. X., De Suspensione.

Now, sir, in these passages the learned author closely defines the differences between censures and penalties in such a way as to show how and why that class of punishments have an undefined duration. He also expressly defines suspension, of whatsoever kind, [in perfect agreement with Beveridge] as "silently including," when not expressly defining a limit. And further, he lays it down as a universal proposition, that suspension, "of what nature or extent soever," (whether partial or total, temporary or perpetual,) "only suspends a clergyman from office or benefice, but by no means deprives of office or benefice."

And here, sir, I propose that the House now take a recess until 7 o'clock, for between listening and speaking I confess that I am fatigued, and the hour of adjournment will arrive before I can proceed much further in my argument.

EVENING SESSION—7 O'CLOCK.

Rev. Dr. Ogilby resumed his argument, as follows: I beg leave Mr. President, before proceeding with the argument which I commenced before the recess this morning, to recapitulate very briefly, what I then said, that the House may the better understand my present position. It will be remembered, sir, that I took up the consideration of the first general question entertained by my Rev. brother from Louisiana, "What is the present condition of the Diocese of New York?" and that I maintained the negative of his position, that it is vacant. In doing so, I examined first, the grounds of his assertions, that according to the ancient Canon Laws of the Primitive Church, Suspension is always, not only total, but perpetual, that suspension was the one original punishment known to the penal code of the Church, and that degradation came from suspension. I showed, on the contrary, that the penalty of suspension was wholly unknown to the early Primitive Church, that its Canon Law has no equivalent term for some ages; that the primary and original punishment was degradation and deposition, and that as offences were multiplied in the Church, suspension was devised as a punishment intermediate between admonition and deposition. All this, I confirmed by evidence contained in Beveridge's learned comment on the 11th Apostolical Canon; and thus made good the position, that for the meaning of suspension, we must have recourse to the later canon law and Canonists of the Church.

I then glanced, sir, in passing, at the case of Meletius, which the Rev. gentleman from Louisiana cited as a case of suspension on Bingham's authority. As the learned gentleman from Maryland had read this morning, an extract from the Synodal Epistle of the Fathers at Nice, which set forth his sentence, not by any technical term or phrase, but by the enumeration in detail of the several parts of the whole punishment inflicted on him, from which it was manifest that they deposed him wholly, I did not think it necessary to say, what I now take occasion to mention, that Bingham does not (as my Rev. brother from Louisiana affirmed) call this a case of suspension. His words are these: "The same was determined in the case of Meletius, by the same Synod, that he might retain the bare name and honor of a Bishop, but never after officiate in his own church or any other." (*Antiq.* xvii. iv. i.) And here permit me to suggest a caution in regard to Bingham's chief work, that, however valuable it is as a popular work on Christian Antiquities, (for Bingham is not a canonist) it is necessary to use and cite it with judgment. For though not careless, he is not technically exact in his language; and as he is not confined in his range to the usages of the early church alone, nor to a very strict method, he often refers in the very same sentence or paragraph, without any careful distinction of time, or of technical terms, to authorities widely apart; so that the Councils of Nice and Trent, for example, might seem, to the inexperienced reader, to be next door neighbors. This will sufficiently explain his application of the term of suspension as a general term to the penalties of the early code, which had no such term.

Having thus disposed of the first division of my Rev. brother's argument, I went on to consider his appeal to Modern Canon Law. And here, sir, not having access to his authorities for the reasons given, I took them upon his own showing, and maintained that they only established what no one has denied, that suspension is distinguished, in reference to its scope into total (when it suspends from the exercise of all prerogatives and functions that pertain to office and benefice, both) and partial (when it suspends from office or benefice singly, or from a part of the functions and rights that attach to them;) and that it is further distinguished, in respect to its duration into temporary (when a fixed period or a definite contingency is presented, at which it expires *ipso facto*,) and perpetual (when it runs on indefinitely, though not forever, until it is terminated by the authority of a competent power or tribunal.

I then proceeded to show, first of all, the distinction and difference between Ecclesiastical Censures, and Ecclesiastical Penalties, in the eye of the canon law; and also the true nature and limits of the several sorts of suspension, whether inflicted by the way of censure or of penalty. I showed, on the authority of that most learned and distinguished Canonist, Van Espen, that all punishments for past overt acts of trespass, are *Pœnæ* (Penalties) while those inflicted for contumacy and perseverance in crime, are *censuræ* (Censures;) and that the difference between the two kinds of punishment, is this—that the former have a definite limit prescribed by the sentence, which being reached, they cease *ipso facto*; whereas the latter, from their nature and design, must needs be indeterminate in point of duration, and must run on till the offender repent of and desist from his contumacy, when they are terminated by the proper ecclesiastical authority.

I further proved, by the same witness, that suspension, of what sort soever, whether Censura or Pœna, whether total or partial, whether temporary or perpetual, must have a limit expressed or implied: for "if it has no fixed period of duration assigned to it, it will continue until it is removed by him who has the power; which undefined limit is always silently included, and in this suspension differs from deposition, which includes a certain positive perpetuity of duration." And further, that "of what natue or extent soever suspension may be, it is certain that it only suspends a clergyman from office or benefice; that is to say, hinders him from freely discharging his office, or exercising the functions annexed to it, or receiving the emoluments thereof; but it by no means deprives of office or benefice," but that "it leaves the office and benefice to the clergyman entire."

On these grounds I maintained that the sentence of suspension, pronounced upon the Bishop of New York, does not deprive him of office or benefice, though it suspends him from the exercise of the functions annexed to them; that it, therefore, does not void jurisdiction, and that the Diocese is NOT vacant.

And now, sir, that I have indicated sufficiently my present position, I will proceed to the third stage in the argument of the Rev. gentleman from Louisiana, at which he took the ground that a sentence of suspension, without any limit annexed, is absolutely deposition. Although I have already, I submit, sufficiently refuted this assertion in advance, it may be worth while to examine the reasoning with which my Rev. brother attempted to support it. He argued, sir, that inasmuch as time is an essential element of suspension, and as the Court fixed no time, ergo, they gave to it all time! Really, sir, this, as it strikes my mind, is a singular argument. No time; ergo, all time! Now, sir, I admit that time is a necessary element to the doing or suffering anything; but how it comes to pass that when no precise time is prescribed for doing or suffering, all time is alloted to it, I, for one, see not. Suppose, sir, that a superior, to whose authority I was amenable, should direct me to do some particular act, without specifying in advance the precise period within which it should be done; and when called to account for entire neglect of the duty, I should say in excuse, "Sir, you mentioned no particular time, and, therefore, I consider myself entitled to take all time;" would such an excuse avail me? And yet, sir, for aught that I can see, the reasoning is as good in the one case, as in the other. So much, sir, on this head.

My Rev. brother from Louisiana proceeded, in the next place, to entertain directly the subject of jurisdiction; a subject, sir, it must be admitted, in some of its bearings and aspects, not altogether free from difficulty. But, sir, on this particular topic, the Rev. gentleman's argument was so full of inconsistencies, if not of contradictions, so chaotic (I may say) as a whole, that I can safely say, I have never heard, in the same space of time, so many inconsistent views of a subject presented by any speaker of a tithe part of his ability. From which I infer, that his theory of the subject is false, and, therefore, necessarily inconsistent with itself or with other settled principles. He alleged, for example, that it is given by the people; but he admitted that, not they, but only the Bishops, are competent to take it away! He said that it is conferred formally by the Convention of the Diocese that elects; yet he knows, what we have seen, that a "Bishop elect," to whom consecration is denied, has not a vestige of the right thus formally conferred! He affirmed that it might be avoided ipso facto, by an act of the Bishop himself; yet he has stated that by the canon, the approval of the House of Bishops alone gives effect to an Episcopal resignation! He has said that in England it is given by the King; and again, he has affirmed on the contrary, that it is conferred by the election, on the part of the Dean and chapter under the conge d'elire, and he has shown (in the case of Bishop Williams) that when it temporarily lapses, it reverts for the time to the Archbishop? He makes it dependent upon office, not on benefice; and yet he must allow that a Bishop loses his jurisdiction by resigning, not his office, but his benefice!

Upon this subject of benefice, by the way, my Rev. brother almost joins hands with the learned gentleman from Virginia, who followed me yesterday, and who denied that there are, in this country, any benefices at all. Now, sir, if by "benefice" is meant, any temporal provision for the clergyman's support, or the "laborer's hire," I grant that there is on the whole, not overmuch of this sort of benefice. But, sir, I take the term in a less restricted sense than this, to denote in the case of a Bishop, his see, his sphere of jurisdiction together with the actions thereto properly belonging. And this holds good whether his revenue be ten thousand pounds or as many cents per annum.

But sir, there is a far more important question than what jurisdiction is connected with, viz: *Whence does jurisdiction come?* From the people, replies my Reverend brother from Louisiana. From the people, sir! What, sir, does office too, (on which, according to my Reverend brother, jurisdiction depends,) come also from the people? Do the people confer on Bishop, Priest, or Deacon, that power or prerogative, by virtue of which they minister, in Christ's behalf in holy things; and in his name baptize, and preach, absolve and consecrate?

My Reverend brother, sir, concluded his speech, this morning, with a thrilling passage from one, on whom he first pronounced a just and glowing eulogy; whom the verdict of successive generations has pronounced with one consent, "the judicious Hooker." Let me quote, sir, from the sixth book of that immortal work, "Of the Laws of Ecclesiastical Polity," a passage bearing on the subject. [Here Dr. Hawks asked, "are you sure that book is Hooker's?" To which Dr. Ogilby replied, "I have no doubt that it is. Does the Reverend gentleman from Louisiana doubt it himself? At all events, I am willing to adopt it as my own; and wish I could write like it, so very like is it to what Hooker certainly has written."] The passage, sir, is as follows: "Having, therefore, drawn out a complete form, as they," (the Puritans) "supposed, of public service to be done to God, and set down their plot for the office of the ministry in that behalf; they very well knew how little their labors so far forth bestowed would avail them in the end, without a claim of jurisdiction to uphold the fabric which they had erected; and this matter not likely to be obtained but by the strong hand of the people, nor the people unlikely to favor it; the more, if overtures were made of their own interest, right and title thereunto. Whereupon there are many which have conjectured this to be the cause, why in all the projects of their discipline (it being manifest that their drift is to wrest the key of spiritual authority out of the hands of former governors, and equally to possess therewith the pastors of all several congregations,) the people, first for surer accomplishment, and then for better defence thereof, are pretended necessary actors in those things, whereunto their ability for the most part is as slender, as their title and challenge unjust."

Now, sir, I had occasion this morning to give my Reverend brother credit for adopting a line of argument, in deducing degradation from suspension, (the greater from the less) parallel to that which our Presbyterian friends adopt when they deduce Episcopacy from Presbytery. I am bound in justice now to admit, that he has shown himself in the present matter, an able apologist for the Puritans; and if a certain stone in New England was endowed with the magic virtue, vulgarly ascribed to a famous stone in a distant island, I should suspect him of having kissed the Plymouth rock.

But, sir, to return to the grave question, whence does jurisdiction come; let me quote again from Hooker. "Before," says he, "there can be any settled determination, whether truth does not rest on their part, or on ours, touching lay elders; we are to prepare the way thereunto, by explication of some things requisite and very needful to be considered; as first, how besides that spiritual power which is of Order, and was instituted for performance of those duties whereon there hath been speech sufficient already had, there is in the church no less necessary a second, which we call the power of Jurisdiction. * * * The spiritual power of the church being such as neither can be challenged by right of nature, nor could by human authority be instituted, because the forces and effects thereof are supernatural and divine; we are to make no doubt or question, but that from Him which is the Head, it hath descended unto us that are the body now invested therewith."

Sir, "from him which is the Head it hath descended unto us that are the body now invested therewith."—And how descended? Directly from Christ to the people, and reascended from them to the Bishops? Is this the state of the case, as the position of my Reverend brother from Louisiana requires? Who then gave jurisdiction to St. Peter, and to St. Paul, and to all the Apostles? Who but he who said unto them, "All power is given unto me in heaven and in earth. Go ye, therefore, and teach all nations, baptising them in the name of the Father and of the Son, and of the Holy Ghost: teaching them to observe all things whatsoever I have commanded you. And lo I am with you always, even unto the end of the world. Amen."

And who still gives the power of jurisdiction to the successors of those first Apostles? Is it the people?—Did the Ephesians give it by election to Timothy, or the Cretans to Titus? Did the Turks give it to Bishop Southgate, or the Chinese to Bishop Boone? No sir; it still descends unto us from Him which is the Head, mediately through consecration or ordination, [which gives equally office and jurisdiction; though the latter not usually without the consent of those who are to be governed, expressed by election,] the power of which is derived from Christ, the fountain of all power, through the chain of Apostolic succession. And this power or title none can lawfully take away or receive back, except those at whose hands it has been received; nor they, except for just cause duly shown, and in the manner by law prescribed.

But I am still told, there is authority against you; the venerable authority of a Bishop, whose name is justly dear to us all, and whose word is mighty; who once exercised jurisdiction in this very see, and whose voice in this very place was wont to sway the minds and hearts of his people. Well, sir, what then? I am told on the other hand, that if that venerable man, whom my Reverend brother has so justly eulogized, did once hold and teach that jurisdiction is a matter of mere human arrangement, he lived to be and to own himself in this respect, of another mind. But even if he did not, what then? Did he ever claim, or can we accord to him, the prerogative of infallibility?—For one, I am not, and will not be, bound to swear to the words of any human master. I will neither be a "Bishop White" man, nor a "Bishop Hobart" man, nor any other body's man; but, by the grace of God, simply a Christian, and therein a Churchman.

But, sir, it is time that I should pass on to the next topic in the argument of my Reverend brother from Louisiana. He tells us, sir, that the Constitution and Canons of our own Church imply a vacancy. In seeking to establish this position, he alleges that those who deny that the diocese of New York is vacant, must need admit, First, That Bishop Onderdonk is the Diocesan of New York. Second, That by the terms of the sentence he can perform no Episcopal act. Third, That his disability must continue without intermission as long as the sentence shall remnin in force, which may be during the residue of the Bishop's natural life; and Fourth, That the Diocese can elect no Bishop until that period shall have arrived.

Now, sir, I freely and cheerfully admit each and all of these four postulates. What then? My Rev. brother proceeds, sir, to rest his argument upon the consequences that result from this state of things. He says, [and I for one think that he is right in so saying,] that one of two consequences must needs ensue, either that the Diocese, in seeking to extricate itself from this perplexity, will be tempted to call in the aid of another Bishop, [as this Diocese has done] which will be an *intrusion* of another Bishop into an occupied See, without the consent of the Diocesan [which being suspended he cannot give] in violation, not only of the Constitution and Canons of this Church, but of established Church principles; or, that, on the other hand, the Diocese, without any fault whatever on its own part, will be under a virtual interdict. He asks, then, whether such consequences can have been in the mind of the legislature, when it framed the canons, under whose operations this state of things has been brought about? And since it is the design of the laws of the Church, to secure the welfare of the Church [agreeably to the maxim, ut res magis valeat quam pereat,] and especially to secure to each Diocese the services of a Bishop, so essential to its complete organization and its full enjoyment of the means of grace and the ordinances of the Church, he contended that this state of things ought not to continue, and that the obstacle which lies in the way of its termination, viz., [as he alleges] the occupation of the See by the suspended Bishop should give way to the neecessity, and that a vacancy should be considered as existing under the Constitution and the Canons of this Church.

To this argument, it is enough to reply, that the consequences of the operation of the Canon in the present case were not indeed contemplated, because not foreseen by the legislature, which must truly have had prophetic gifts to have forseen them. The case, sir, is one by itself, entirely anomalous; and the argument from consequences, always uncertain and dangerous in determining duty, is peculiarly inapplicable here. And as to the remedy proposed, sir, unless the sentence makes the vacancy, it cannot be made at all conformably to the Constitution and Canons of the Church. But since the sentence of suspension does not, as has been shown, void jurisdiction, it follows that the Constitution and Canons of the Church imply the contrary of a vacancy. Let it not be forgotten, sir, that there is another obstacle in the way of relief, viz: the sentence of suspension, whose removal by legitimate means is, I am persuaded, the only mode of relief consistent alike with the Constitution and Canons of this Church, and with sound and sacred principles of ecclesiastical polity.

The next argument urged by the reverend gentleman from Louisiana, to prove that the diocese of New York is vacant, is that a vacancy has been created by the act of the bishop himself. By what act, unless it be by those acts of alleged trespass of which he was charged, and found guilty, does not appear. Nor is it more apparent how he could have created a vacancy by those acts, since it will not be pretended that immediately upon their commission the vacancy existed *ipso facto*; nor that it took effect before the sentence of the court was pronounced. It is obvious therefore that it was created, if at all, by the sentence itself. But it is certain, moreover, that, under our canons, as well as by the universal usage of the Church, a Bishop cannot of himself, or by any act of his alone, vacate his jurisdiction.

In opposition to this view, the reverend gentleman has cited the case of the Bishop of Clogher as sustaining his own position. But the Bishop of Clogher, though he did abandon his see, and wholly disappear, did not thereby *ipso facto* vacate his jurisdiction. But he was duly cited to appear on trial; and for contumacy, as well as other grievous causes, he was convicted, and sentenced to be "totally deprived of his Episcopal office, and deposed from his see." So that jurisdiction was, in this instance, voided by the sentence of the court, and not by the act of the Bishop.

He has further cited, in confirmation of his view, the well known cases of Bishop Provoost, of New York, and of Bishop Chase, of Ohio, the present venerable presiding Bishop. But these cases are, as all will admit, cases by themselves, wholly anomalous, *exceptiones quae probant regulam*. As such they were dealt with at the time; and the General Convention, taught by experience, provided against the recurrence of like anomaly in all future time by the present canon [the 4th, of 1844,] "of Episcopal Resignations" which goes upon, and guards, the principles that a Bishop cannot, and may not by his own act, vacate his jurisdiction,—and that, as the bishops alone can give jurisdiction, so they alone can take it back. Its first and second sections are as follows:

Acknowledgments.

New York Bible and Common Prayer Book Society.—The Treasurer acknowledges the receipt of the following sums,

From Trinity ch, Clarksville, Tenn, Rev Wm C Crane, 5; Ascension ch, Frankfort, Ky, Rev John N Norton, 5; St Paul's ch, Vergennes, Vt, Rev Foster Thayer, 10. Total amount, $20.

Donations and subscriptions thankfully received by
THOMAS C BUTLER, Treasurer and Agent,
At the Depository, 20 John street.
New York, October 26, 1847.

Missionary Committee of the Diocese of New York.—The Treasurer has received since his report of 12th inst., the following contributions, viz:—

From a family of St Luke's ch, New York, 6; St Stephen's ch, New York, 14; enclosed in a note to Rev Wm Morris, from a "lady for cause of Diocesan Missions," 10; Trinity ch, New York, Rev Dr Haight, collection 24th inst, 69 60. Total amount, 99 60.

C. N. S. ROWLAND, Treasurer,
October 26, 1847. 55 Water street.

porary, or "perpetual and without restriction," he quoted his very words,—that is, where there is no restriction, it is perpetual. Other writers on the subject, (and doubtless all will be brought up in this discussion,) give similar views. Ayliff tell us, in his classifications of the subject, that suspension may be either in whole, or in part,—*ab officio*, or *a beneficio*, from office, or from its perquisites, or from both; for a time, or forever; and that it may be dependent on conditions, and limited,—or *simple* and *absolute;* and that covers the very idea set forth by the gentleman from Ohio in regard to this sentence. It is simple and absolute—unlimited,—without reference to any contingency. It is a sentence of suspension, in the language of Ayliff, "simple and absolute," only differing from deposition in this, that the person sentenced may be restored,—while in deposition he cannot, either under our Canons, or in the ancient codes. Now as he happened to be looking over some authorities upon this subject, he begged leave so far to enlighten his friend from N. Y., who had pronounced dogmatically that no sentence of suspension, even if valid, could be construed as perpetual, unless it were in terms so expressed; he had found an authority very *pat* to his purpose. It was a decision of the Court of Salamanca, pronounced while interpreting some of these ancient Canons of the Church; and it was then declared that in respect to time, sentence of suspension might be either perpetual or temporary; that is perpetual which is general and absolute, without determined duration,—*nulla determinata duratione*. The very fact that it is unlimited, makes it perpetual. That is plain common sense. There can be no use in going back to Salamanca courts, or any other, for such decisions. If the sentence is without limit, it certainly cannot be limited, except by the action of some Court having power so to do. He understood the gentleman from New York to ask, if the Bishop were deprived of his office by this sentence, how could he be restored to it? Is there any meaning in restoring a person to something of which he has *not* been deprived? The very usage of language demands the deprivation of office as a condition of restoration to it. But how is this? The gentleman assumes the legel invalidity of the sentence, and yet comes here with a proposition recognizing its validity, and proposing to modify it! If the sentence be null and void, why not say so—and there is an end? The very proposition to modify it assumes that it is valid, and is inconsistent with the ground just taken upon it. He held, therefore, that both direct restoration, and the indirect restoration proposed were wholly inadmissable.

Now comes the other question, how far there is competent authority, as in the case of a vacancy, to elect a new Bishop. He did not know how others might have been entangled by technical distinctions on the subject, but to his own mind no proposition was ever presented of a more self-evident character, than that the suspension, without limit, does operate as a deprivation of office for the time being, that is, while it is in force, and that it leaves nothing but a possibility of restoration. He thought he could make this so manifest on principles of common sense, and of common law, that it could not be difficult of decision with any mind. Take the case of suspension for a limited time—say for three years—how does it operate? No one can fail to see that it effects deprivation of office for the given time, leaving a reversion—a vested reversion—in the officer suspended. Compare this now with the case before us, where the suspension is without limitation of time, simple, absolute, unqualified in regard to either time or contingency, what is left in the suspended officer?—There is no vested reversion—only a possibility of reversion, contingent on the event of his restoration. This he was willing to concede—that the Bishop might still, if it was deemed desirable, remain technical, or titular Bishop; for God knows he would give anything which he could properly, that might be deemed a consolation to the individual. If his friends can satisfy themselves with this—if they are content to make him a man of straw—let it be so; let it be conceded that he has a possibility, a *potentia remotissima*, of restoration. This could not affect his proposition, that while the sentence is in force he is deprived of jurisdiction, of official functions: there is a virtual vacancy, and that vacancy may be filled, leaving no vested reversion, but only a remote possibility of a reversion, by which they may, if they please, call him still a titular Bishop. In an able argument made by one of the committee of twenty, appointed by the first Diocesan Convention, the whole amount of it was, to use his own language, that he was still "*technical* Bishop"—though he clearly proved that during the operation of the sentence, he was not actual Bishop. He (Mr. R.) was reminded by a gentleman for whom he had great respect, that this bare possibility of reversion—such as he had shown, was all there was left in the case, is never recognized as a substituting entity: it is not *in fieri*, but merely *in posse*. He should not dispute upon verbal distinctions of any sort. If it could do anything for the consolation of the unfortunate and venerable man now under sentence, he was willing he should still be called titular Bishop. It could not affect his proposition in the slightest degree.

Now let us come to the other point, and show that upon principles of common sense and of common law, there is a *total vacation* of jurisdiction over the Diocese of New York, to which the suspended Bishop was appointed by the election of the people. Gentlemen would see there was a manifest distinction recognised between the general office of a Bishop of the Church, and the local or particular jurisdiction of a given Bishop over his own Diocese. He should now consider the question in reference to the latter subject. What is the effect of the sentence on his local charge of the Diocese to which he was originally elected? When the principles of common sense were brought to bear upon this point, no candid mind could resist the conclusion, that the connection of a Bishop with his Diocese is like every other connection of that sort, a *matter of contract*. It is a principle of law that every office, by its nature and constitution, its very essence has attached to it certain conditions—the individual is to perform its duties, in order to enjoy its emoluments. He would read authorities in support of this—summing up the opinions of all the elementary writers on law from Coke to Kent,—and he cited them not as technical authorities, but simply because they presented *ratio scripta*—the universal dictates of reason inscribed on the understanding of man, and embodied in all civil institutions.—It is explicitly laid down by Blackstone, that "if a grant is made of any office generally, without other words, the law tacitly annexes conditions that the grantee shall duly exercise the duties of the office—on the breach of which condition, *it shall be lawful for the grantor or his heirs, to oust him and put another person in his place.* This applies directly to the case in question: it is impossible to escape it. It applies to ecclesiastical as well as to civil offices. To every office, the law annexes this condition, that the grantee shall perform the duties of the office, or he may lawfully be ousted and another put in his place. It goes still farther. An office may be forfeited either by misuser or by non-user: 1st, as if a judge should take a bribe: 2d, by non-user, or neglect, which applies to all offices in a commonwealth, and a *fortiori* to officers of the Church. This is itself a direct and immediate cause of forfeiture. Now will any body say there is not at least a non-user by the Bishop of New York, of all his functions, which will continue as long as his sentence continues? Nor can his sentence be pleaded in excuse for this, for it is to be presumed that the sentence was caused by a misuser in the first instance; so that both apply, and both operate, as a forfeiture of the office, and put it in the power of the grantor to bestow it upon another. Leaving out of view, then, the relation which the suspended Bishop sustains to the Church at large, in regard to his relations as an Episcopal officer over a given Diocese, it has been shown that his privileges and claims are forfeited by both misuser and non-user, and that this is sustained by the best authorities. Now all that was proposed by the resolution he had submitted was, to declare this principle, and also to declare that action under it would be lawful and proper.

He would now go further, and show that this principle has been recognized in its application to ecclesiastical cases by the highest authorities,—by Lord Mansfield himself, who was never fettered by technical points in great questions of right and wrong. In a case familiar, doubtless, to legal gentlemen here, deliberately argued by learned counsel, the principle cited from Blackstone was applied directly to the case of a curate against a rector. The case was this:—The rector of St. Ann's parish, Westminster, employed a person to act as his curate for a stipulated compensation. It was alleged that the defendant was not qualified for a curate, having never obtained from the Bishop the licence necessary; and on that ground his pay was withheld. On this point Lord Mansfield said that if after reasonable notice he does not procure every qualification necessary to the performance of his duty, the defendant would be excused from paying his salary, for the plaintiff's services were not only a consideration, but the *condition* of his receiving the salary. Apply this decision, (reported by Cooper,) to the present case. Has the suspended Bishop the qualification necessary to do the duty of a Bishop—and if not, can he demand any of the immunities of the office? No, says Lord Mansfield, because his legal qualification is the indispensable *condition* of his receiving any of the privileges of the office. There are cases at the very door of the Convention, in which the same principle is recognized and carried out. A new case was decided before the Court of Errors in this State, singularly identical with the one before us. It was the case of a minister of the Dutch Reformed Church, organized under the rules of the Synod of Dort, and bearing a striking resemblance to the model of our own ecclesiastical institutions. In that case the minister was suspended for intemperance, for a period of six months before he was formally deposed. He afterwards brought an action for his salary during that interval, and the whole question was as to the *effect of suspension*, and that too in connection with an explicit covenant, that he should receive his pay so long as he continued a minister of that congregation. The whole question was, whether, being under sentence of suspension, he could be considered a minister of the congregation; and the decision was, that he was *not entitled* to be so considered. Thus the very case before us has been decided by the highest tribunal of the State of New York. In glancing over the canons he had also found in *them* a corroboration of the principle, that a suspended minister is not to be recognized as a minister. There is a canon of the church in this diocese, ordering a list of ministers to be made out, and expressly declaring that no *suspended* minister should be included in that list.

Rev. Dr. Forbes rose to say that he believed the gentleman was under a misapprehension.

Mr. Rives said he had all his life considered it a matter of most solemn obligation never to cite any matter of fact until he knew its accuracy. He pledged himself to show the canon to which he referred; whether it was in force now or not he did not know. And now how do we stand? He trusted his friend, if he had done him the honor to follow him in the remarks he had made, would do him the justice to say that it was not absolutely monstrous, irrational, absurd, and unnatural to entertain the opinion that while the sentence of suspension is in force, there is a virtual vacancy in the office, particularly in the Episcopal jurisdiction of the Diocese. The distinction taken is recognized by one of the writers of high authority in the Church, a former member of this convention, who lays down a clear distinction between jurisdiction as a general Bishop of the Church, and as having local charge of a particular Diocese. A Bishop may resign the jurisdiction of his Diocese, but he still remains a Bishop at large—subject to the canons and ordinances of the Church. (The canon cited was handed to the gentleman, who read from it the provision he had quoted,—that a list of ministers should be made out, and that the name of no suspended Bishop should be included in it.

Dr Forbes said he believed it was one of the canons of the Diocese of *Western* New York.

Mr. Rives said it bore upon its title—the Diocese of New York. However, when he could see *his* book again, he promised to find it.) To apply this to the case of jurisdiction, a word in the use of which there is often great ambiguity:—he used the term in its application to the local charge of a Bishop over his own proper Diocese, and said that, whatever might be its operation on his character as Bishop of the Church, on this principle of law that his relation to his own Diocese was purely a matter of contract, a suspended Bishop, if in a situation where he could not use his office, if he were incapable from any cause, of performing its duties, was virtually not a Bishop; and it was perfectly competent for the Diocese to vacate his place and grant his office to some other person. He did not mean now to discuss the point, though he believed that after its forfeiture shall have been declared, he would hold the office in spite of the suspended Bishop. While he believed this principle he desired now to have no controversy upon it. He did not depend at all on that,—his own proposition was, that, for the time being, while the sentence is in force, a new Bishop may be elected, subject to the bardly possible event of his restoration—he held that event to be legally impossible—but would now admit its possibility. He believed he had surveyed and given his views on all the questions that have arisen, together with his reasons for those views; and now he would tell his friend that he would be happy if he would demonstrate the absurdity of the opinion he had presented. He thought it would task his ingenuity to prove that it was utterly irrational, especially since it accorded with the recorded and solemnly expressed voice of his own Diocese. He asked if a sentence of suspension was so absolutely null and void, why has not the Bishop placed himself on that ground boldly before the world? Why does not he come forward and demand the regular payment of his salary,—if he continues to be Bishop? Why does he consent to accept the charity of $2500, if he has a right to his salary of $6000 per annum? If he is Bishop, and is prepared to maintain that ground, let him plant himself upon it. Let him imitate the example of the minister of he Dutch Reformed Church and institute an action for his salary; and then we shall have it decided by the highest tribunals in the land, whether a Bishop suspended is a Bishop entitled to all the privileges and emoluments to that office. He considered it therefore as a mere rhetorical flourish, and not as a definite position which gentlemen were prepared to maintain. It was his solemn conviction that if gentlemen had at heart the peace of the Diocese, if they had at heart the interests of the Church, and of all its members, if they wished to restore the peace and harmony of the Church, let them now come in and concur in a final and definite settlement of the matter, by authorising the appointment of a new Bishop, on the ground that a virtual vacancy exists in the Diocese—a ground they have themselves in practice approved. He called on them as consistent men, to act out their own principles, and they would then see an end put to an agitation which had rent the bosom of the Church in this Diocese, and afflicted the bosom of every part of the Church. All parts of the Church are interested in this matter. He did not come here as a stranger, having no part or lot in the business, offering his advice. He considered himself as a member of the Church, identified with her. Whatever concerns the Church of New York concerns the Church in Virginia. Whatever affected the Church affected his reputation as a member of the Church. And he begged gentlemen to come and bury forever this melancholy controversy. Let the pall of oblivion fall upon the sad occurrence. Let us all agree to forgive and forget the erring brother, who has so fallen from his high place in the councils and trust of the Church. He had a deep sympathy for him and with him; and if penitent, as he believed he was, he has his ardent prayers for acceptance at the bar of Eternal Mercy. But as to restoring him to office of authority and of trust in the Church,—if we should now, when the enemies of our communion, who have so long charged us with lax morality, are at last answered and silenced, at a moment when we have earned the approving verdict of the world,—if now we consent to go back, to humiliate ourselves by revoking our act, to renew the scandal we have now dispelled, and throw again the apple of discord into this Diocese,—for one, he desired to have no part or lot in the matter. And if such should be the final determination of this Convention, he humbly prayed Heaven to avert the consequences, which he could not but believe would follow, in waters of bitterness overflowing not only this Diocese, but the Church throughout this whole Union.

Dr. Forbes said he had only a very few remarks to make in explanation of the views he had already presented to the House. He would not bandy words with the gentleman from Va., about rhetorical flourishes. He desired only to say in reference to the word "absurd," on which the gentleman had so rung the changes, that he (Dr. F.) had applied it to the confounding of two sentences distinct in themselves as laid down in the canon law—degradation and suspension. It was that which he had pronounced an absurdity. One word in reference to another matter. The gentlemen had asked if the sentence were invalid, why had not they so declared it in terms—why not called on the Bishop to act on that view of it? He (Dr. F.) answered, and he hoped that the answer would be satisfactory, they had refrained from so acting because they regarded the peace and order of the Church of God. But he believed that they were not the less called upon to act on that view if they could by another course legitimately attain the same end.

Mr Evans of Maryland, desired to say a few words in reply to the able argument of the gentlemen from Va., (Mr. Rives.) It appeared to him, and he said it with entire respect to that gentleman who had occupied so distinguished a position in the eye of the world, that his argument was full of fallacies. The latter part of it controverted the beginning, and the beginning controverted the latter portion of it. He agreed however in one thing,—that the Diocese ought to be declared to be either vacant or not vacant. If not vacant then they were not at liberty to resort to the remedy which the gentleman proposed. If it were vacant, then he (Mr. E.) also agreed that the best thing for the peace of the Church was to take the course proposed. But he apprehended that it was first of all necessary to establish the proposition that the Diocese of New York was vacant, and how it was vacant. If vacant then the Diocese has a right to elect a new Bishop. That was the gentleman's proposition. If the Diocese were certainly vacant there could be no difference of opinion about the gentleman's proposition, and he (Mr. E.) did believe that the gentleman was about to argue the question on the ground that the Diocese was as absolutely vacant as if the Bishop were naturally dead. That he conceived was the proposition which that House had a right to expect the gentleman would maintain.

Mr. Rives explained. He had contended only for the vacancy for the time being.

Mr. Evans proceeded. He could only express his surprise that the gentleman did not affirm the vacancy.

Mr. Rives knew very well the ground which he had occupied.

Mr. Evans—of course, and he (Mr. E.) had meant no offence in the remark he had made. But he repeated, that he did expect the gentleman would have maintained that proposition, because in his judgment that was necessary to maintain his position. He was surprised that the gentleman did not affirm it. But the gentleman argued only for a temporary vacancy—a virtual vacancy was the word; and when he heard the word "brutally" used, he felt that the gentleman had virtually given up his case.

If this vacancy were temporary, withal, there was another argument which the gentleman was bound to mention. If the vacancy being temporary, then it was for him to show that there was canonical ground for the consecration of a new bishop, and that such a Bishop should be consecrated for a specific length of time. Such a thing had never been heard in the church. A bishop thus consecrated, acquired a new character, which was, though the gentleman might think it absurd, indelible. A bishop could not be constituted *pro tempore*. The gentleman had wholly failed in establishing that position. He had indeed, suggested that they could constitute a Bishop *sub conditione*. He (Mr. E.) would not enter on that point. The position he should argue was—Is the Diocese of New York vacant—actually vacant?

The learned and honorable gentleman had been kind enough to give them a good deal of learning about various modes of suspension—limited and unlimited, and deposition and degradation. But he did not deny—he never would deny that there was a broad and obvious difference between deposition and suspension. He would not deny that the Bishop of New York was not deposed. He had stated already that that was a question before the court who tried him and which had decided not to depose but to suspend. Now the gentleman affirmed that suspension voided jurisdiction. He (Mr. E.) would here admit for a moment a distinction which the gentleman found in Bingham, Ayliffe, and Gibson, and in the Salamanca theology, which he (Mr. E.) did not know had been recognized as ecclesiastical authority in Virginia. He had found in these writers a distinction between suspension *ab officio* and suspension *ab beneficio*. He asked the gentleman to look at the sentence. He had told them that *suspensio ab beneficio*, did not include *suspensio ab officio*, and *vice versa*, for he told them expressly, and no doubt his authorities bore him out, that there might be either or both, and if so, they were separate and distinct. Well, then, where could the gentleman find in this sentence a word about suspension *ab beneficio?* There was not a syllable about it. Now if he were suspended from one not from the other, it was clear that he was not entirely suspended. There remained in him something which was there before, and was still there, from which he was not suspended. The suspension was not indefinite. It was not unlimited. They might say for want of both terms, that it was unlimited as to time, but it was not a suspension indefinite or unlimited absolutely. He was not suspended according to the doctrine of the gentleman from Virginia, *ab officio*. Was that so? Let them look at the sentence itself. The sentence began by a declaration that the sentence of the court should be suspension from the office of Bishop in the Church of Christ, and of a minister of the Church. If it stopped there, everybody would agree that it was a suspension *ab officio*; but it did not stop there. It proceeded and declared that the bishop was thereby suspended from all exercise of his episcopal and ministerial functions. Well, they mean one of the two things. It was evident that the latter part of the sentence was intended to explain the first, and that he was suspended merely from the exercise of his episcopal and ministerial functions. He was not totally suspended from office, but was only inhibited from the exercise of those particular functions during an undefined period of time. There was, then, something remaining. The distinction was a sound one, between orders and jurisdiction. Whether the orders were indelible or not, he would not now discuss. It had nothing to do with the case, because the court had not attempted to take them away. They remained whether they were indelible or not. The court only suspended the exercise of them.

Now as to jurisdiction, not a word was used with regard to suspension *ab beneficio* in the sentence.—Then he was at liberty to conclude, nay he was not at liberty to doubt that there was not such a suspension. There was only an inhibition of the exercise of those functions. There was then, he thought, a good deal left. If he retained his office in the church of God, he remained a Bishop. But supposing that the suspension had extended farther and embraced the office, then he would cease to be the Bishop of New York, but still remain a Bishop of the Church, inhibited from the performance of his functions. It was impossible then, in that view, to maintain that the Diocese was actually vacant. That it was vacant for a time, was another proposition, but he (Mr. E.) believed, not a true one.

What did the gentleman mean by "virtual vacancy?" Surely that the Bishop was not competent to do certain acts. What was the remedy? The vacancy had been supplied by certain acts of the Standing Committee. But it is said there was power to fix an intercessor—a provisional Bishop. There was no canon against an intercessor, but there was provision in the canon to prevent the intercessor or provisional bishop from growing up into a Diocesan Bishop. He alluded to the case of the Right Reverend Bishop of New Jersey, who acted, on one occasion, as the provisional Bishop of Maryland. When a Bishop was elected, he ceased at once to be provisional Bishop or intercessor.

Now as to this distinction between suspension and deposition. Deposition vacated the Diocese. The question was, did a suspension inhibited as to time vacate the Diocese? Every one would agree that one suspension differed from another only in point of duration. Suppose there was suspension for three months—did that vacate the Diocese? The gentleman had styled it a vested reversionary right of return. It was vested undoubtedly. But the suspension did not vacate the Diocese. Nobody would contend that the suspension for three months or for forty years vacated the Diocese. There was still a period at which it would terminate.

Another class of suspensions terminated on the occurrence of some contingency. Did they vacate the Diocese? They were to terminate in an event—in the will of some tribunal or other, or in the manifestation of repentance in the individual. Certainly that was not deposition. Supposing it was a *potentia remota* or a *potentia remotissima*, it was still a right which the individual possessed, and of which he could not be deprived. There was no right in any one to aggravate the punishment inflicted on another. It might be a miserable hope, but there was no right to remove it. What right had they to take away the last plank on which the individual could rest in the shipwreck?

It might be said that the good of the church required that course of procedure. He (Mr. E.) held that the good of the church never authorized the slightest wrong. It was in the hands of infinite justice. The time had often occurred when the church was called on to suffer rather than do wrong. It was so in the days when the church suffered from the sword of Dioclesian and the fires of Mary. The church was called on to suffer any inconvenience, the scorn of the world, anything short of what was in itself wrong, rather than do the slightest wrong. If there was but a pagonentary hope—*a potentia remotissima*, they had no right to rob the individual of it.

He now came to the latter part of the gentleman's speech, to which the answer was to be found in the authorities in which he based the first portion of his argument. The gentleman had told them, and told them truly, in the commencement of his remarks, that there was a distinction between suspension *ab beneficio* and *ab officio*. In the latter part of his speech, he told them that there could be no such distinction, because suspension *ab beneficio* rendered the individual unfit for performing the duties of his office. There was no analogy in the civil case referred to by the gentleman. Blackstone and all the writers on common law, and the common sense of mankind, han decided that you could not add to the sentence—that the decision of the court was final. The case of the Curate was not in point. The Curate was an individual employed by the English rector to do his duty, But the rector was not allowed to appoint him. He nominated him to the Bishop and it was the Bishop who conferred the license on the Curate. In the case cited the curate had not obtained the license, and when he sued for his salary the court told him that he had never been a Curate. It was a very different case from that of the Bishop of New York. He was possessor of the benefice. They had not deposed him. He still possessed a shadow of right. Then they turned round and said—It is true we could not depose you directly, but by this sentence which has deprived you of the power of performing your functions, we will do it indirectly. Could they do so? No. So long as the distinction was recognized between suspension *ab officio* and *ab beneficio* it was impossible for the gentleman to avail himself of one in order to get rid of the other. His whole argument thus fell to the ground.

"But he (Mr. E.) put the matter on a higher ground. The Bishop did not acquire his jurisdiction from the grant of the Convention. The Convention had no such jurisdiction to grant. The jurisdiction of a Bishop came from above, through the agency of other Bishops. It was by consecration that jurisdiction was conferred. It was true that the consent of the Diocese was made a *conditio sine qua non*, of jurisdiction but it was the consecration which confirmed it. Jurisdiction and office were not inseparable. The gentleman was right when he said there could be suspension from one and not from the other, but not at all dependent on the will of the Diocese. The gentlemen knew, he was sure, that the ancient bishops were accustomed frequently to confer authority without any regard to the will of the people. In cases of disputes about the selection of a Bishop, the Bishops were accustomed oftentimes to consecrate their own 'conduct.' If then the people could not impart jurisdiction, certainly they could not remove it. In fact all this calling out for the good of the people, was disrespectful to the House of Bishops. There was no proposal, however, to restore the gentleman without the consent of his Diocese. It had been remarked that the Diocese was of age, and able to judge and act for itself; and as to the awful evils which had been spoken of, he [Mr. E.] did not apprehend great disaster to the church. Certainly the gentleman from Va, need not entertain any alarm with regard to the efforts on his reputation, which was he had said involved in this case. He thought that the Diocese of New York might be very safely trusted with the responsibility of expressing its will in the matter. He had nothing more to say on the subject.

Rev. Dr. Ogilby then addressed the House. He believed that the motion before the House was that offered by the honorable and learned deputy from Va. [Mr. Rives.]

A Member—No.

Dr. Ogilby—Well in the various moves and removes, I have been somewhat perplexed to know what is the proposition to which I must address myself. But it matters little. After all these questions arise and turn upon one great principle—does suspension—he used the term of the sentence—vacate jurisdiction, or does it not vacate jurisdiction.

Judge Chambers.—That is not the question before the House.

Dr. Ogilby—May I call for a reading of the resolution.

The Secretary then read the resolution offered by Dr. Forbes.

Dr. Ogilby proceeded. He would rather have spoken to a proposition somewhat less encumbered with particularities. But inasmuch as the speech made to it by the deputy from Virginia was grounded upon the assumption that suspension without limit worked vacancy, virtual if not absolute, he should consider himself entitled to direct what he had to say, principally, at least, to that position. He was relieved of the necessity of meeting some of the points presented in that case by the able argument of the gentleman who had preceded him [Mr. Evans], of which he was the more grateful on account of his want of familiarity with the legal terms which the learned gentleman had employed in the course of his remarks.

He spoke then to the main question, which would, he took it, be decided according to ecclesiastical law and policy. Before proceeding farther, he might be permitted to say that inasmuch as on a former occasion there seemed to have been a prejudice in some minds with respect to those principles of ecclesiastical polity, it might not be out of place for an ecclesiastic and theologian to discuss the question on principles of ecclesiastical law and polity. Both were he apprehended, founded on the experience and agreement of the Church—upon what he might call the sanctified common sense of the Church in all ages—that immortal maxim, *semper ubique omnibus*, being its corner stone. On that platform he took his stand.

Before proceeding to debate this question at large, he begged permission to disembarrass his own position of certain entanglements—if he might use the term—what the learned gentleman from Virginia had thrown around it. He alluded to the action of the New York Diocesan Convention. He was happy to agree as far as possible, with the gentleman, who had more than once referred in the most courteous manner, to principles advanced by himself, in which he could concur; and though he (Dr. O.) regretted that he occupied a position contrary to that assumed by the diocese, in which he formerly occupied a place and which contained many of his warmest friends, yet he admitted heartily, that the Convention of the Diocese of New York, and the Standing Committee had no right to take the prerogatives whice they had been using, pending the suspension of the Right Rev. Diocesan. He believed that that action violated both the canons and the constitution of the Church, and he freely gave the gentleman and argument the benefit of that admission. But after all, what did it come to? Did two wrongs make a right? Were they to do wrong because the diocese of New York; in circumstances of any peculiar embarrassment, had done wrong? God forbid! He said nothing about the Right Reverend Fathers of the Church who had admitted the government *de facto*. On what principles they had recognized it, he knew not. They were competent to defend themselves. But he would say that having given the gentleman's argument the benefit thus far, the advantage was altogether neutralized by the very inconsistent action of the Diocese of New York;—for so far as the matter of jurisdiction was concerned, directly opposite positions had been assumed in the action and in the application before the House. He had more respect for the Diocese of New York than to suppose that if they believed in their hearts that there was in the Episcopate a vacancy, absolute or virtual, or whatever else it might be called, they would not have proceeded to the election of a Diocesan. They would not in that case come there to trifle with that House if these difficulties arose from their own shamefacedness, delicacy or timidity. He dismissed that view of the case.

Now, he submitted that the great question at issue was simply this: What is suspension? What does suspension? What are its limits? What is its operations?

Before proceeding to discuss these questions, he desired to say that he should claim the full benefit of the discussion of a principle in regard to which he was perfectly sure in advance that he would have the entire concurrence not only of the gentleman from Virginia, but of every jurist in that House; and that principle was in brief terms that in all criminal laws—in the application of any of the principles of enactments in criminal law—and still more in the interpretation of criminal sentence, the very strictest possible construction was absolutely incumbent; and that they could not depart from the letter of the sentence—he did not mean to exclude the spirit, without perpetrating a great wrong.

He took his ground then upon the sentence of the Court of Bishops in the case of the suspended Bishop of New York. He had nothing to do with the verdict that was to be judged hereafter. He said nothing of that, but should uphold it to the last. But of the sentence of the Court he had a right to speak; as a legislator then in his place he had a right to speak of its meaning, and to interpret it, or strive to interpret it conformably to the law of the Church in all ages and to the principles of the polity of the Church in all ages, and thus viewing that sentence he was compelled to say in the first place that he was sure that it worked no vacancy, and if he might speak the present convictions of his mind that it was an absolute nullity.

His position was sufficiently intelligible and he begged the attention of the House for a brief space whilst he endeavored to present as clearly and briefly as he could, the ground on which that judgment and conviction in his mind rested.

The position he had already said was one of canon law after all. This canon law was of course their own. At the same they used the English language. They came of English stock. This Church was propagated from the English branch. They had solemnly declared that it was their design not to depart farther from the mother Church than was needful. In ascertaining the sense of terms used in the canon law he felt he was not only entitled but bound to go to the canon law of the mother Church. He might as his lay friend from Maryland had done follow the learned deputy ftom Virginia to Salamanca, but perhaps in him (Dr. O.) that might be deemed approaching too nearly to Rome! However, he could say that the quotation from the Salamanca code, or directory, or whatever it might be called related to a sentence not of suspension but of perpetual suspension.

After all, the appeal, then, was to English canon law. That law as had been remarked presented several distinct and separate penalties, all proceeding in regular gradation on the principle that the penalty was to be in the ratio of the guilt. The first was "admonition," which being generally fraternal and corrective was therefore put in the front as an almost necessary antecedent to any other act of discipline. However, passing that by as not germane in the present argument, he would proceed to the next penalty. That was "suspension." It was next in the scale, unless he should put side by side with it deprivation of benefice, which was frequently inflicted, and as was, he supposed, well known to all familiar with the English canon law, was altogether apart from any suspension from office. Then came "deposition" or "degradation," which had been already defined that morning. The question in the present case was simply as to the meaning of "suspension," and the limits of "suspension." He quoted from a book known to all there familiarly as Blackstone—"The Ecclesiastical Law by the Rev. Richard Burn, L. L. D.," 3 vol. page 607, 8th edition, article "Suspension:"

"In the laws of the Church we read of two sorts of suspension; one relating solely to the clergy, the other extending also to the laity. That which relates solely to the clergy is suspension from office and benefice jointly, or from office and benefice singly, and may be called a temporary degradation, or deprivation of both. So we find it described by John of Athon; a person deposed is he who is deprived of his office and benefice, although not solemnly; a person degraded is he who is deprived of both solemnly, the ensigns of his order being taken from him; a person suspended is he who is deprived of them both for a time, but not forever."—(Burn's Ecclesiastical Law, article "Suspension.")

It was put both affirmatively and negatively, and it confined the idea of suspension—mind, he was talking of suspension without any qualification—not partial suspension, not indefinite, not unlimited, but simply suspension, as the term was used in the sentence—it confined and limited, absolutely and wholly, the suspension to a temporary punishment, "depriving them for a time, but not forever."—He could adduce much more to the same effect from that authority, but that was unnecessary. He maintained then, that in the eye of the canon law, the idea of a limit—whether it was a limit of time, or, as afterwards provided for, a limit depending on a contingency—always entered into the very being of "suspension"—that it was essential to it, and that without such a limit there could be no suspension.

Now it might be said, and it would be said, in reference to the sentence before them, that there was no implied limit. The House of Bishops might remit the sentence. He knew that that might be maintained with some plausibility—but few he apprehended would urge it. He was one of the readiest to give the House of Bishops a large presumptive right in this matter, but he was not willing to admit that under their canon law, as things existed in that confederacy, the Bishops had the power to remit a sentence until some general law was passed authorizing them to do so. He might therefore assume for the purpose of the present argument that this section prescribed no limit, and since the section was to be held to the strict letter, it must provide for everything. If it said simply suspended, it was suspended from nothing. If suspended from office, it was suspended so far. If from office and benefice it was then going still further. If for three years, there was a limit. It became a legitimate sentence of suspension for that time. If it was to last till the party made restitution or satisfied the proper tribunal of his penitence and amendment, then again there was a limit, and it was a legitimate sentence of suspension. But if it left out the conditions—if it omitted to mention what the party was suspended from, it was a nullity, and ought to be treated in justice and equity as if it had never been pronounced.

But then came the fearful argument of consequences—dangers on the right hand and on the left. Be it so. He admitted that there was danger to be dreaded. He would go as far as any gentleman in that direction. He would admit that if he had the misfortune, guilty or innocent, to be in the predicament of the present Diocese of New York, he would shrink from facing those dangers, unless sustained by the strongest convictions in so far as respected those charges, of the most immaculate innocence. But he was not to judge for the Bishop in that matter. He was responsible to God alone. He might, if he pleased, offer himself as a victim. He might, Curtius-like, leap into the chasm and filll it up, but they had no right to demand it of him.

He maintained, therefore, on the grounds which he had stated—briefly and imperfectly he was aware—first that this suspension having no limit was not a legitimate sentence of suspension at all. But if it were a sentence of suspension, then, again, he contended that since it did not specify suspension from benefice, they must presume that it did not design to suspend from benefice—that it took away only that which it said it meant to take away, as was argued by his friend from Maryland, and simply took that away for a time. At the worst, the benefice was there entire and untouched, and could not be, if all the Courts in Christendom decided otherwise; and here he begged to remark, that he honored the Bishop of New York for that for which he had been reproached, namely, that he had chosen rather to suffer in the house of his friends, than appeal to the judgment of the world.

The benefice then, he (Dr. O.) contended remained in its integrity because it was never taken away even for a day, and with that benefice there did necessarily remain jurisdiction. For what was deprivation? He would quote from the authority already cited:—

Deprivation is an ecclesiastical censure, whereby a clergyman is deprived of his parsonage, vicarage, or the spiritual promotion or dignity.

A Bishop's charge was his see and to that see there did of necessity pertain jurisdiction over it, and since the see was never suspended for a day even that jurisdiction remained in him, not in remainder or reversion or any such thing, but absolutely, wholly, until further sentence, forever, and that House could not make approach to any act which should in the slightest degree, impair that inherent and at present indefeasible title.

Mr. Williams next addressed the House. He dwelt chiefly on the expediency and positive danger of the restoration of a bishop soiled or stained by such a judicial sentence. He quoted St. Paul's description of a bishop as given in his epistle to Timothy;—and insisted that individual who had been convicted by his brother bishops after a solemn and deliberate trial, of immoralities which involved a gross violation of his ordination vows, and all his obligations could not possibly exert any good influence, if restored to the exercise of his functions. Whether the bishop was innocent or not, there were many in that diocese who would not open their doors to him, or permit his hands to be placed on the heads of their wives and children in the holy office of confirmation. He deprecated that sort of side-wind effort, by which it was sought to restore the Bishop, without any investigation into the propriety of his sentence—without any remission of his penalty by the House of Bishops—with a sort of proviso that if the diocese did not object to his restoration, he might be restored. That was designed to meet the case of the clergy, consenting to receive him while the laity refused. He then proceeded to discuss the legal question, of which he was disposed to take a particular view, and bring it to the test of common sense. There was no such thing as "benefice" in the U. S. of America. A benefice was a legal right fixed by law, and not by resolution of the church. By it the bishop was entitled not only to the living, but to a seat amongst the peers of the realm.

Dr. Ogilby begged leave to make an explanation.

Mr. Williams was not disposed to yield the floor.

The hour of adjournment was approaching, and he wished to conclude his remarks by that time. He then proceeded with his remarks with application of the term "benefice," to cases of episcopal charges in the U. S. Suppose that the Bishop tested the question by appealing to a court of law. He was well assured that the same answer would be given as was provided in the case of the priest. The cases were identical. Did the Bishop get his salary by Divine right?

A Member—I hope so.

Mr. Williams would like the gentleman to show him where his authority was to be found for that sentiment in the Bible. One of the first Bishops got his salary by working with his hands as tent-maker.

Rev. Dr. Mead—But he still claimed his right to temporal support.

Mr. Williams of course, agreed that the laborer was worthy of his hire. But the ox must tread out the corn. He then proceeded to speak of the anomalous and painful condition of the Diocese of New York, and insisted that some adequate provision for its relief was demanded by imperious necessity. What was there in the name of Bishop—what cabalistic influence was in that term to prevent them from giving that relief? Gentlemen seemed to suppose that in case a new Bishop were elected and the sentence were subsequently remitted, an anomaly would be presented. But there was no weight in that objection. In that case the Bishop would be a Bishop at large. So it was in the case of voluntary resignation and a *fortiori* suspension would have a still stronger effect. As to "jurisdiction," he did not know what was meant by it, and if a dozen of the gentlemen attempted to define it, he doubted if any two of them would agree. The greatest *sequitur* he ever heard was, that because the Diocese was not vacated the sentence was a nullity. He denied the right of the Convention to pass upon a judicial sentence of the tribunal which they had themselves constituted as a court of last resort. He concluded by an earnest appeal to the House to avoid the danger of restoring a Bishop on whom the brand of judicial sentence rested.

A somewhat lengthened conversational debate then ensued relative to the holding of evening sessions.

It was finally decided on motion of Dr. Hawks that the House should take a recess until 7 o'clock, and on motion of Mr. Rives, it was also agreed that hereafter there should be a daily recess from 3 to 7 o'clock.

The House then took a recess till 7 o'clock.

EVENING SESSION—7 O'CLOCK.

At the opening of the evening session, Rev. Dr. Hawks rose and said—

MR. PRESIDENT—When I reflect on the momentous interests involved in this discussion—when I call to mind the deep and anxious solicitude which pervades the minds, not merely of churchmen here, but throughout our borders—when I remember that this solicitude reaches to the minds of Christians beyond our country, and that our proceedings are anxiously watched by good men not of our own communion—in short, sir, when I call to mind that in some sense, a question of the morals of a nation is involved, I am free to confess that I rise under an unusual sense of oppression. The decision we make in this case may affect the dearest interests of the Church, for weal or wo, centuries after our heads are laid beneath the clods of the valley. I approach its discussion not without a feeling of solemn awe. Before I enter upon its particulars, allow me, Sir, the privilege of a few preliminary observations. Sir, I would disarm prejudice. I fear there may be those here who will receive, with distrust, remarks from me, because I have been publicly and falsely charged with having originated the proceedings in the case of the individual now before us. I solemnly declare in the presence of Him who is to be my final judge, that I had no concern in the matter. It was commenced by others, not merely without my agency, but without even my knowledge. I hope, therefore, the House will hear me with dispassionate and unprejudiced minds. The only object at which I aim, is *truth*. I am but fallible, and claim for my opinions no admission as of right to the force of authoritative dicta, that are to settle the points in dispute. I have bestowed some study and reflection on this case, under some advantages of access to libraries of canon law; and I desire merely, with becoming diffidence and modesty, to bring my feeble light to aid in seeing our way clearly through the difficulties that surround us. My chief solicitude is, that we should direct our attention to *principles*, and it is as foreign from my purpose, as from my inclinations to utter a word that may affect painfully the feelings of any man. Allow me to add, sir, the expression of my hope that my manner may not be misunderstood. I possess ardor of temperament; it is the fault (if fault it be) of my country. I was born under Southern skies, and I cannot (if I would) help expressing myself with earnestness which may be misunderstood for warmth; and zeal in argument, may be misconstrued into infirmity of temper. What I feel deeply I cannot but express strongly; but I hope to do so on this occasion, with courtesy of manner and propriety of language. I now proceed to the discussion.

I fear I shall be heard by many gentlemen with regret, when I say that in my firm believe the Diocese of New York is vacant, and has been vacant since the passage of the sentence upon Bishop Onderdonk in January. 1845. To this point I shall direct my first argument—the first of the various arguments which I shall have occasion to make. The first point to which I desire to call the attention of the House refers to our own canons, interpreted by the only rules which it is wise or lawful for us to adopt, and I shall be able to produce the authorities which I take to fix the law upon the subject. Our own Church, ancient as well as modern, has fixed *three* penalties for its offending officers—Admonition, Suspension, and Degradation. I believe I may safely say that no individual conversant with canon law, or with ecclesiastical history from the earliest day, can doubt that these have ever been the punishments for offending clergymen. The inquiry presents itself, what was the early interpretation of the law—what is the meaning of these penalties? Now I affirm that he who would endeavor to settle the meaning of the law by simple reference to the technical terms of art as they are used in common parlance, would proceed upon an entirely wrong principle. "Suspension" is a technical term of art, perfectly and purely ecclesiastical: Now what was suspension? The canonists tell us that suspension touches three things—that it touches them all and that it could touch no other. In case of the common clergy suspension touched their *order* and their *benefice*. In case of higher officers it touched their *office*, their *order* and their *benefice*. In their case, all that belonged to ecclesiastics of the highest rank could be affected. How could it touch them? Did it invariably work a temporary deprivation of either or all? Not necessarily: it might affect any or might affect all—but not necessarily. What then did it affect? Through the whole current of authority, there are two distinct relations of the sentence—first its extent, second its duration; and therefore the sentence of suspension, (I speak ecclesiastically) is either total or partial—is either temporary or perpetual. If it touched all of them, office, order, and benefice, it was total. It might affect the office as in the case of a Bishop, and not touch his order as a priest or his benefice. It might touch his benefice without touching his order or his office. Thus the sentence is distinguished as total or partial. Further than this: if the sentence of suspension was indefinite, if it did not name what it did affect, it was invariably construed to affect them all, and to deprive of all. Next as to time: in some cases the time was annexed: in others it was made dependent upon some contingency yet to happen: and in others nothing was said about it: and when it was so unaccompanied with any definition it was to be construed to be perpetual. This I give as the general history of the sentence of suspension. I do not now proceed to make any application of it, but I beg the indulgence of the House while I read a portion of the authorities on which I have ventured this assertion. Had I chosen to do so I could easily have produced tenfold authority in its support. The position in which I have been placed gives me access to very large libraries of the Canon Law. I have examined the subject by the aid of these libraries, dispassionately as I thought, and without prejudice but with an anxious desire to find the truth. I have selected from the mass of Canonists of various countries, that it may be understood I quote no isolated opinion, the sentiments of no one country, but from the canons of Christendom; and this is the definition that is there given of suspension. The first authority I shall quote as PICHLER'S "*Jus Canonicum*," Book V. Chapter 39, Sections 69 and 40. "Suspension," he says, "is an ecclesiastical censure depriving a clergyman or a minister of his *office* or his *benefice*, or *of both*;"—"of his office, under which name the power of *order* and of ecclesiastical jurisdiction"—mark it—of the jurisdiction which attaches to the office; "is included;"—"Total Suspension" he adds, "is that by which he is suspended from *office* and from *benefice* together, such as would always be understood when it is expressed in *indefinite* and *absolute terms*, unless another meaning can be collected from other sources; for an indefinite proposition is equivalent to a universal one, on account of its own indifference. Suspension, when indefinite, is understood as absolute, total—from office and from benefice alike."

The next authority I shall quote is a Spanish authority. And permit me here to say that we were edified to-day by a sneer, misplaced I could not but think, at the authority cited of the Court of Salamanca. Give me leave to say that this is no contemptible authority. The authority I shall now quote is that of Lucius Ferraris, in his "Bibliotheca Canonica," I read from the edition of Villarna of the College of Advocates, published at Madrid. It is a book of authority.

Under the word suspension he says that "Suspension is divided into suspension from office, suspension from benefice and suspension from both office and benefice together. Suspension is either total or partial; and when absolute and without limitation, and when nothing else can be collected from other sources, it is to be deemed *total—est censenda* TOTALIS—because, as before, an indefinite proposition is to be construed as universal.

The next authority I shall quote is that of Murillo, in his Cursus Juris Canonici, Lib. V. Titulus 39, sec. 420—de sententia suspensionis. It contains a doctrine which, I am free to confess I do not find elsewhere; but not upon a point for which I refer to it. "Suspensio est totalis ab officio silicit et beneficio simul; qua scilicet clericus utroque privatur: et talis esse intelligitur, non solum quando exprimitui in jure, sed quando absolute est simpliciter profertum." This is the point to which I ask the attention of the House. "Suspension is always total, suspending from both office and benefice at once, and each suspension occurs not only when it is termed *in jure*, but when it is set forth simply and absolutely." Let me explain, in a few words, what is meant by sentence *in jure*. All sentences in the canon law were pronounced either *in jure* or *ab homine;* in the first case by law, in the other b ythe ecclesiastic—by individual in virtue of his office. The first was termed *in canone* or *in jure*; the latter *ab homine*. The point of the citation is this: that suspension is to be understood as *total*, when it is stated simply and absolutely.

And now I proceed to another authority—that of the "Repertoire Universel et Raissonne de Jurisprudence," &c., compiled by Guyot—a work which stands as high among canonists as any other within my knowledge. It is a book made up from the decisions of various countries. I read from that part of the work which relates to suspension—"*suspens*"—"Suspension," he says, is a "term of the Church." I beg that this may be borne in mind—"suspension is a term of the Church"—not to be settled by modes of ordinary speech—it is a term of art—as such it always has been, and is now used in the Church, from the very beginning and in all her canons. "Suspension is an ecclesiastical sentence by which a clergyman may be punished by the privation of his order, his office or his benefice." And to give his sense of the effect of such a sentence, he adds—"Cependant, lorsqu, it est plus apropos de proceder par le deposition." I beg the House to mark this: "When suspension is without limit—intended to be forever—it is more appropriate to proceed by deposition. "There are three sorts of suspension—the first deprives the person suspended of his functions; the second of jurisdiction." Mark it, for we have heard a doctrine upon this point which I shall comment on presently—a doctrine which I believe to be deeply, fatally erroneous—"the third deprives him of his fruits—of his benefice." He goes on: "if suspension be total, it ought to be expressed *par le droit*, that is, *de jure*, or pronounced by the law—and when suspension is without addition"—without limitation, literally without *a taet*, san quene—"it is to be considered TOTAL."

The next authority I shall cite, is that of Henricus Canisus, in his work *de Jure Canonico*. In that treatise he says: "Suspension is an ecclesiastical censure by which is interdicted to the person censured, the exercise of his office, or his benefice, or of both together, in whole or in part, for a certain time or perpetually." But this is not all. I beg leave to say that the authorities for the statement I have made, are not altogether of foreign countries. Similar authorities exist in the mother church, and from one of them I shall now proceed to quote. I read from WOOD'S "*Institute of the Laws of England*," Book IV., Chapter I., page 528, in the edition of 1763:—"Suspension is a censure whereby ecclesiastical persons are forbidden to exercise their *office*, or to take the profits of their *benefices*; or whether they are forbidden both of them in *whole* or in *part*, for a *certain time* or *forever*.

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§1. If, during the session of any General Convention, or within six calendar months before the meeting of any said Convention, a Bishop shall desire to resign his jurisdiction, he shall make known in writing to the House of Bishops, such his desire, together with the reasons moving him thereto; whereupon the House of Bishops may investigate the whole case of the proposed resignation, including not only the facts and reasons that may be set forth in the application for the proposed resignation, but any other facts and circumstances bearing upon it, so that the whole subject of the propriety or necessity of such resignation may be placed fully before the House of Bishops.

§2, "An investigation having thus been made, the House of Bishops may decide on the application—and, by the vote of a majority of those present, accept, or refuse to accept such resignation."

Seeing, sir, that a bishop cannot, if he would, create a vacancy, it is manifest that the bishop of New York has not, by his own act, created such vacancy.

The next argument offered to prove that the diocese of New York is vacant, proceeds upon what the reverend gentleman from Louisiana is pleased to call "the common sense view of the subject." And here my reverend brother was eloquent in his praise of common sense, which is certainly a very good thing, if it be real and sound common sense. Let us see how the reverend gentleman from Louisiana applies it to the case in hand. He says, "what is an office but a right to perform certain duties? Therefore, *e converso*, he who cannot perform the duties is out of the office?"

Here Dr. Hawks rose to explain that he said that "an office involves a right to perform certain duties."

Dr. Ogilby replied that he adopted the reverend gentleman's amendment, though he had taken pains to note his language carefully, and thought the amendment took away the point of his *e converso*.

Therefore, continued Dr. Ogilby, he who cannot perform the duties is out of the office. Really, sir, this is a very sweeping proposition. Let us try it in its practical application. A rector of a parish is disabled by sickness for the performance of duty. Is he *ipso facto*, out of his office? Or, another is deemed, by the majority of his parishioners, incompetent or unequal to the discharge of his duty. Is he, too, *ipso facto* out of his office? Truly, sir, this would be a very convenient rule for restless parishioners, and would save them the trouble and delay of starving out obnoxious or unpopular pastors. I trust, sir, that the Rev. gentleman's view of the tenure of office is not the common sense view.

At this point, sir, before proceeding to the second principal division of his subject, my Rev. brother was pleased to answer an anticipated objection to his assumption, that suspension in our canon, according to his view, is practically the same thing as degradation. And truly, sir, it was natural enough that he should anticipate this objection. For any plain man looking at the canon, and taking "the common sense view" of it, would be apt to think that inasmuch as it employs three distinct and separate terms, "admonition, suspension, and degradation," it means three several and different penalties. Now, how does the Rev. gentleman dispose of this difficulty? Why, sir, he tells us that in certain cases of degradation, excommunication and civil disabilities are annexed to it by the laws of the mother country, or of some other country, which are technically got rid of by substituting suspension for degradation, though these penalties are intrinsically the same; and that for this reason the two names are retained in the canon to express but one thing.

Now, sir, had the Rev. gentleman been arguing before an ecclesiastical legislature of the country, whose laws thus complicate the penalty of degradation, there would at least have been some plausibility in his argument. But by what law of this land do civil disabilities attend upon degradation? And by what law of this church is excommunication visited upon a degraded minister? The gentleman's argument, sir, is beside the mark, and has no force or application among us. And so far as yet appears, there is no reason why suspension and degradation should not be regarded as distinct and different punishments.

And now, sir, I come at length to the second and concluding inquiry proposed by my Rev. brother from Louisiana as the subject of his argument. What are the powers of this body to meet and relieve the difficulties of the diocese of New York? They are, he says, legislative, and at the most advisary, not judicial or remissive. And thus far I agree with him in this branch of his argument. This Convention (as such) has not, and *a fortiori* this house has not, power to remit, nor has it any other part or parcel of judicial or executive power. What can be done by legislation, without violating the principles of equity or of ecclesiastical law and polity, it may do: no more. And when it shall presume to venture beyond this range, it will establish a precedent fraught with peril to the peace and welfare of this church. So far I am happy to agree with my Rev. brother.

I agree with him also in thinking that a provisional bishop is not the remedy suited to the case; though not with all his reasons for it. He is right, I think, in viewing the introduction of a provisional bishop into this diocese, in its present condition, as virtually (however palliated by a supposed necessity) the intrusion of a second bishop into an occupied see; that is, on the hypothesis, which for argument a sake he admitted, that the diocese of New York is not vacant, as I maintain and think I have shown it is not. But when he objected to the admission of a provisional bishop, as a preparatory step to the future, though remote and contingent, restoration of its present afflicted diocesan; and when he denounced it as the opening a door through which convicted guilt might enter, I was forced to part with him. Convicted guilt, sir! Might it not be opening a door through which a repentant sinner might re-enter? Nay, sir, would it not be in the judgment of not a few, the opening a door through which injured innocence might return to reclaim and exercise its rights?

The Rev. gentleman next considered the project of an assistant, and expended very much wit to very little purpose, in showing the absurdity of providing an assistant to a nobody. Sir, I have yet to see the man, upon this floor, and to hear the voice that has proposed any such measure of relief as an assistant bishop to the suspended bishop of New York. And therefore, sir, the Rev. gentleman's sallies of wit were as so many shots fired in the air.

And now, sir, we come to the only remaining alternative, for which the Rev. gentleman has strenuously contended, viz: that New York shall be permitted, as she has a right, to have her own diocesan. And here, sir, I heartily concur in the remedy proposed. Yes, sir, New York must, sooner or later, have her own diocesan. Other she can never have, without sacrificing principles so sacred, that rather than commit the sacrilege, it were better that she abide under an interdict as to Episcopal services, and forego all the benefit of all those ordinances and duties which a bishop alone can minister, until the Divine Head of the Church shall be pleased, in his own time, to terminate her sufferings, either by an act of His Providence, taking her bishop to Himself, or by moving the hearts of those who have or will have the authority, to remit his sentence, and permit him to go forth once more among his people, freely and without restraint, to fulfil to them his spiritual duties as their Father in God.

But some will exclaim, "how can this soon be?" Know you not that there are those in the diocese who will never submit to this, who will never receive him as their spiritual father, who would turn their backs upon him, and upon the altar should he enter the sanctuary of God to minister in holy things? Do you not see the danger and evils that such a course would entail upon this diocese, and through it upon this Church?"

Sir, let me tell gentlemen that there are two sides to this question; that there are dangers on the right hand as well as on the left; that, as there are doubtless some of the temper described, so there are others at the opposite pole, who are as resolute in maintaining his innocence as the former in asserting his guilt. And, sir, let it not be forgotten that there are many who are in neither extreme of feeling or position, who uphold the verdict of the court out of respect for constitutional authority; nay, who sustain the validity of the sentence, whatever doubts they have of its legality; but who think, at the same time, that it ought to terminate sooner or later; who, believing it to be temporary, will not consent to make it perpetual; and who could not consistantly with conscience consent that church principle should be violated in the person even of a guilty man, were the bishop of New York still such.

But, sir, who are they that may safely go beyond the scope of the sentence, and deny a place of repentance to this suffering bishop, even if he be guilty, as charged? Shall sinners dare to shut the gates of mercy against a fellow sinner, and thereby forfeit their own claim to its saving grace? Or shall any think to vindicate right by resisting the judgment of the proper tribunal whenever it shall remit the sentence? Did I, sir, for one, believe that the difficulties and dangers in the way of remission were tenfold as great as they seem to be, I would be bound to assert, nevertheless, that I see no way of untying this knot, and of supplying the Diocese of New York with the measure of relief she craves, except by giving her back, as her diocesan, him who is, in fact, at the present time her Father in God.

Mr. Wharton, of Pennsylvania, said that after the elaborate remarks on both sides of this important topic, which had proceeded from clerical members, the House perhaps, in the way of variety, might be inclined to indulge a layman in some brief suggestions. He regarded the point as one merely of the true interpretation of a statute of our own Church. There were two questions, he thought, involved in the propositions before the House. First—What is the true meaning of the word "suspension," as used in the third canon of 1844? and secondly—What is the legal effect on his jurisdiction of the sentence passed upon Bishop Onderdonk of New York?

As to the first, he said he was unwilling to put the case upon the ground assumed by some, viz.: the meaning of the word as it stands in the sentence irrespectively of the canon. It was its collocation and use in the canon, that was the key to its meaning. If you settle its definition in the canon, you settle it in the sentence—because the Bishops pronouncing sentence had no desire to give the word greater force in the latter than it bore in the former—and if they had any such intention, it would be powerless, because they possessed no such authority. They acted and professed to act under the canon. *That* limited their power in this respect.

What then was the meaning of "suspension" in the canon? The legislature of the Church was prescribing the kinds of punishment to be inflicted upon ecclesiastical persons for certain offences. These penalties were admonition, suspension and deposition. They were graduating these punishments. They meant them to be different or they would not have mentioned them all.—If not so, fewer words would have answered their purpose. The portion of the canon prescribing penalties was very brief. The law-makers ought not to be supposed to have used tautological expressions—which they have done, if "suspension" mean "indefinite suspension" and this latter mean "deposition."

He said he was not disposed to deny that in former ages of the Church, the sentence of perpetual or even indefinite suspension was sometimes equivalent to deposition. How early this occurred he was not competent to pronounce. The gentleman from Maryland, [Mr. Evans] and the reverend gentleman from Louisiana, [Dr. Hawks] had differed upon this point. But however that might be determined, the point before us was the meaning of suspension in our own canon. Of this then he felt sure, that there its sense was different from its former sense, and that so much of the earlier meaning of the word as made it equivalent to degration, was cut off from it by the canon of 1844, and carried over to the word "deposition." And thus the term "suspension" retained all its meaning which at any time it rightly had, except so much of it as was equivalent to the third named penalty. If this were not the case, just so far as the meanings of the two words were the same, they were necessarily tautologous and did not convey distinct ideas.

He proceeded to argue that a clear distinction between the words, was maintained throughout this very canon of 1844, under which Bishop Onderdonk was sentenced. After prescribing the penalties in the 5th section, the next section provides that if the accused Bishop fail, without proper cause, to appear, he shall be pronounced as in contumacy, and sentence of suspension from the Ministry shall be the consequence. If within three months thereafter the accused shall appear and take his trial. this sentence shall be reversed—but if he fail to appear as aforesaid, what does the canon prescribe?—That this sentence of suspension shall stand? No—but that sentence of deposition from the Ministry shall be pronounced against him by the court. Now, if indefinite suspension mean deposition, (and the suspension becomes indefinite under the canon after the expiration of the three months,) why go on to depose a man already deposed? Has he any thing left in him that can still be taken from him? If the two words mean different things, he has—if they mean the same thing, he has not.

But did the Legislature use phrases which were new to them, and of which the sense was to their minds confused? He thought not, His reverend friend from Louisiana, [Dr. Hawks] had pointed them to the 24th canon of 1832, in which the word "suspended" was used; and the learned gentleman from Maryland [Judge Chambers] had referred them to the 39th canon of the same year, in which the word "deposition" occurred. This last canon, Mr. W. remarked, was a legislative definition of the word. So that the Convention of the Church in 1844 employed terms with which they were familiar, and one of which thay had expressly defined by statute. There was therefore no escaping from the conclusion, that these words were of different signification.

If this were so, it was unimportant for him to define exactly what suspension in the canon of 1844 meant. It was sufficient for his argument upon the matter before the House, to show that it did not mean deposition. If nothing short of this latter avoided jurisdiction, the matter then before them was disposed of. It was the conviction of the correctness of this view that had no doubt led the reverend gentleman from Louisiana, whose perspicacity was well known, to direct the whole strength of his argument to this point, viz., the equivalent force of the two words. Suspension, simply, in his view, meant indefinite and perpetual suspension; and this, again, meant deposition. If he were wrong in that position, his whole argument fell to the ground.

This, Mr. W. said, brought him to the second question. What was the legal effect on the jurisdiction of Bishop Onderdonk produced by his sentence? Was his jurisdiction by that act, not merely suspended, but so suspended or taken away that it would not or could not return to him if the exercise of his office were restored? He would answer this latter query in the negative, and add, that the Bishop's legal position immediately after the pronouncing of the sentence was his present position for the purposes of his argument. It could not be affected by any thing that this Bishop might now do.

He considered it unimportant to his argument in what way a Bishop received jurisdiction over his Diocese—whether, as some thought, directly from the Great Head of the Church, or as others thought, from his consecrators; or again, as others contended, by a grant from his Diocese alone, or from that body conjointly with the General Convention. Some of these modes had been pressed with great learning and ingenuity by gentlemen who had preceded him, as the exclusive means by which the Bishop got his jurisdiction. Now he, Mr. W., thought it quite unimportant to settle this point, inasmuch as the great practical question was, not how the Bishop obtained his jurisdiction, but how he lost it. If it were acquired by grant from his Diocese, that grant conferred a title, which could not be revoked against his consent.—Perhaps the better view of the point was, that all [whose consent was necessary,] concurred in the acquisition of jurisdiction, the Bishop's title was the stronger.. He gets it because he is Bishop, and for no other reason. But again, he said, how can he lose his jurisdiction? That was the point for us to determine. He contended that there were but three modes of losing Episcopal jurisdiction. He would state them on the authority of an elementary writer, who had been already quoted and relied upon by the honorable and learned gentleman from Virginia, [Mr. Rives.] He referred to Judge Blackstone. That author was of authority upon English Ecclesiastical law, so far as he treated upon the subject, and he specified three, and three only, modes, viz: 1, death; 2, resignation; 3, deprivation by competent authority. Now the two first of these modes had no application to the present case. Bishop Onderdonk was alive, and had not resigned the jurisdiction of his Diocese. Neither had the Bishop been deprived, (which by our canon law meant degraded,) if the first point of his argument had been made out. According to Blackstone then, Bishop Onderdonk had not lost his bishoprick or his jurisdiction. In what way, then, has he lost his jurisdiction? It is answered, by his sentence of suspension. This brings us to the effect of the particular sentence. Does that sentence take away his jurisdiction so that it can never be restored?

It was unnecessary for his argument to discuss the legal validity of the sentence. For his purpose, he assumed the sentence to be a legal one, and in full force. The objection to its legality rested, as he understood the Rev. gentleman from New York, [Dr. Forbes,] upon its want of certainty. It did not express on its face, how long the suspension was to last, nor when the sentence would be satisfied. He. Mr. W., did not think it necessary for his present purpose either to affirm or to deny the force of the objection. Nor did it come within his plan of argument to contend that jurisdiction was connected alone with benefice, as the Rev. gentleman from New Jersey, [Dr. Ogilby] had argued, or to discuss critically the terms of the sentence, as the gentleman from Maryland. [Mr. Evans] had so ably done, with a view to the same point. He, Mr. W., preferred meeting the question as the Rev. gentleman from Louisiana, (Dr. Hawks) had presented it, and admitting the correctness of the latter's argument that jurisdiction was attached to office. If the suspension of Bishop Onderdonk took away the office, it took away the jurisdiction. He, Mr. W. doubted, with his friend from Louisiana, whether benefice, strickly speaking, prevailed in our country. The term signified, as we all know, an ecclesiastical living. It was property held for the good of the Church—in beneficium ecclesiæ—and hence its name. It had attached to it the cure of souls. The parson is a corporation, having perpetual succession, who holds the title of the Church, church yard, parsonage, glebe and tithes in himself. In this country, the church-property is otherwise held. Whether the See or Diocese of a Bishop, (the words being equivalent and signifying, as he understood them, the seat of his jurisdiction,) can here properly be called a benefice, he would not pretend to determine, but he could not understand how a Diocesan Bishop could be suspended from the exercise of his office in our Church, and yet retain his jurisdiction as a consequence merely of his benefice. But waiving this, as for his argument unimportant, did the indefinite suspension from the exercise of office take away irrecoverably the jurisdiction of Bishop Onderdonk? His view of the matter was simply this. The jurisdiction of a Diocesan Bishop is an essential consequence of his office. It is part of his work, and is the exercise of a vested right. It is attached to his office and goes along with it. When that is taken away altogether, this is also taken away altogether. When that is suspended, this also is suspended. When the exercise of that is restored, the exercise of this also is restored with it—and in the interim of suspension, if the office can not be injuriously affected by any action of others against it without the Bishop's consent or fresh cause—so neither can his jurisdiction be so affected except for similar cause.

If it be true then that jurisdiction is inherent in the office of a Diocesan, and if neither the office nor the jurisdiction separately under our canon of Episcopal resignation, has been resigned by Bishop Onderdonk, and no judicial sentence of a competent tribunal has deprived him of them, it was, Mr. W. said, out of the power of man to take his jurisdiction from him against his will. Ten thousand conventions of the Church could not do this, and it was entirely useless and unprofitable to rack the brain and set about devising schemes to accomplish that result. His jurisdiction could not be divorced under these circumstances from his office by any human agency. What God hath so joined, let not man dare to put asunder.

He did not intend to discuss the question of the Bishop's salary. It was a matter not before them, and he was not enough acquainted with the facts of the case to venture an opinion; but as he had heard that it was a mooted point in the Diocese of New York, he might venture, merely by way of illustration, to suppose as a fact, that his suspension did not touch his salary permanently—that is to say, that his salary would at least return to him if restored to his office. Now he would ask whether there was a member of that house who would consent to a law, under such circumstances, which would dispose of his salary without or against his consent, notwithstanding any future restoration of the Bishop? He supposed not, The Convention could not lay a finger on his salary if the sentence did not. If, then, jurisdiction be a part of his office, as he had endeavored to show, to be restored when the latter was restored, would the House presume to control that any more than it would his salary? Would it undertake to measure their comparative value? or to pronounce jurisdiction as a thing of no value, and therefore revocable at will.

It was, in his judgment, then, altogether vain to attempt to do what was a violation of the Bishop's right—for, with a body of Christian men, what was morally wrong, was morally impossible.

Now he would say in conclusion, that he was sensible that the result to which he had arrived, would be very satisfactory to many. There were those in this Diocese who were nervous, anxious, impatient and restless—who were eagerly desiring and expecting something to be done at the hands of this Convention, in order to remove their anxiety, and who were themselves imagining various measures of relief. It is hard for an anxious man to be compelled to do nothing. To say to such a one, sit still and fold your hands in silence, was advice hard, either to be given or received. It required the exercise of much faith. But he would venture to say, that if, as had been eloquently represented on that floor, the Diocese of New York were deeply afflicted and disheartened, if the prayers and sighs of many of her clergy and her people, by day and by night, ascended to Heaven in petitions for relief, and if it be indeed true, as he was persuaded it was, that no human invention could devise ways and means of redress without violating the immutable principles of justice, he would beseech his brethren to repose in humble yet confident faith—in quiet and stillness let your strength be shown—and doubt not, but believe, that those prayers and those sighs will enter into the ears of the Lord of Heaven, and that in his own good time, he will favorably answer your petitions, and send once more into your hearts that peace and hope and joy which are now far distant from you.

On motion, the House adjourned.

SIXTEENTH DAY'S SESSION.

Saturday, Oct. 23, 1847.—The House met pursuant to adjournment.

Morning Prayer was said by the Rev. Joel Clapp, D. D., Rector of St. James' Church, Woodstock, Va., assisted by the Rev. John L. Watson, Rector of Grace Church, N. J., reading the Lessons.

The minutes of the preceding day were read by the Assistant Secretary and approved.

The Committee on Elections reported on several applications for leave of absence.

On motion of Mr. Newton, of Mass., next Monday was fixed as the time for choosing, by ballot, a Committee to nominate a Board of Missions for the next three years.

Rev. Dr. Jarvis, from the Committee on Canons, reported one, which was ordered to be printed.

Mr. Macfarland, of Va., being entitled to the floor, gave way to the Rev. Dr. Forbes, who, in order to disembarrass the question, and to bring the house to a vote upon the resolution of Mr. Rives (or Williams,) as amended by Judge Chambers, as to whether the Diocese is full or vacant, withdrew his resolutions, and said:

Mr. President—I think it must be obvious to every member of this House, from the course which the debate has taken upon the resolutions which I had the honor to submit that the question most prominently in the minds of members of the House, and which it is considered most desirable in the first instance to settle before any ulterior measures are referred to, is that respecting the vacancy of the Diocese. Is the Diocese of New York vacant, or is it not? Is the Rt. Rev. Dr. Onderdonk the incumbent of that see, or is he not?

Now, sir, under such circumstances, I deem it proper to disembarrass this question as far as possible, and for this purpose have now risen, with the leave of the House, to withdraw the resolutions I had the honor to submit.

Those resolutions, Mr. President, were designed as a conciliatory measure, and although they have not been so regarded by gentlemen on the other side of the House, yet I apprehend, sir, when the difficulties of the case come to be fully realized for, with all due deference to gentlemen on the other side, I think we are just beginning to understand them, when I say, sir, we begin fairly to grapple with the difficulties of the case, this matter may be viewed in a different light.

What, sir, is it that the Diocese of New York has asked at the hands of this Convention? Is it simply a measure of relief, as gentlemen have all along assumed? Not at all; It is relief from the anomalous position in which we stand.

We ask to be relieved from this, and to be placed where we are entitled to stand by the Laws of God, and the Constitution of this Church.

And for whom is it we ask relief? Is it for the Clergy alone, or the Laity alone, or both conjointly? No, sir, but for the Church in the Diocese of New York, that is to say, what we always mean in the Diocese of New York when we speak of the Church, its Bishop as well as its Clergy, and Laity conjoined, and how do we ask for this relief in a way that may be consistent with the powers of this body. We do not ask the Convention rudely to cut the knot of our difficulties, for we might do this for ourselves, if we regarded not sound principles and were not lovers of peace or order; but, sir, we ask this Convention to disentangle it for us, if it can, with the fingers of Law and Justice. If it cannot be done in this way we do not ask it at all. Now, sir, see the difficulties of the case; on the one side are those who most deliberately and conscientiously hold out not only that the diocese is not vacant, but still more, that the sentence of the Court is null and void. On the other, they that maintain that the Diocese is vacant, and that under no conceivable circumstances can it be desirable for the Bishop of New York to resume his duties. Matters standing thus, Mr. President, I did think that a mere abstract proposition, yet embodying a principle just and proper under all circumstances, and with such a guard as was secured by its proviso, might have commended itself to fair-minded, intelligent men on both sides of the House, and I cannot but think, sir, that the time will come when it will be so regarded. As to the proviso, it was not indeed what some gentlemen had desired, but, sir, it went a good way towards meeting their views, and it was the utmost the New York delegation could yield; and, sir, above all, it was open, honest, undisguised, and intended to be conciliatory.

It not, however, being deemed desirable now to press such a measure, I desire sir, with the leave of the House to withdraw it.

Hon. Mr. Ingersoll, of Pa., then offered the canons he announced his intention of offering, the other day, as a substitute. The question being in this position,

Mr. McFarland resumed the floor, and said that the most perplexing cases were those which involved both public and personal interests; and it often happened that sympathy with the individual overcame the more general consideration of public good. This is more mischievous in spiritual matters than in any others. In feeling so much for the Bishop we were apt to lose sight of the diocese. It was agreed that the diocese was and had been without an *acting* diocesan for three years, and might be still longer. Yet she was fully entitled to a bishop at all times. But it is said she has a bishop, though disabled from performing any function whatsoever. Is New York to be satisfied with the name of a bishop, because if you satisfy her rights, you violate some right of the suspended Bishop? He was only a suspended Bishop, and was the Diocese entitled to no other? In respect to those offices which were instituted for the good of the public, and not of the individual, it was not right to make the public suffer the loss of important functions, because the functionary was disabled. Grant that suspension vacates the jurisdiction, and it does not follow that suspension and degradation are therefore equivalent. He compared the difference to that of death by hanging and death by shooting. Suspension is legal and practical construction, and had far less intensity of delinquency and guilt, as well as the possibility of restoration. Though it vacates the jurisdiction, it does not destroy the office. When a commanding officer of a fleet is suspended, he loses his command immediately, and when he is restored, he is not restored to the same, but only to his rank in general. Mr. M. then went into the inquiry as to whether jurisdiction was given in consecration or by the oconvention. He did not much care. But in this country, and under our system, a bishop he cannot obtain a definite jurisdiction without the action of this body of the Church in some way. Consecration confers the faculty of the episcopate, and the limited district is given by the Convention.

[A message from the House of Bishops was here received, announcing that they did not concur with the House in naming the third Wednesday in September, as the day for holding the Triennial Convention; but unanimously propose the *first* Wednesday of September.]

Mr. McFarland continued. There was nothing in the consecration service assigning the Bishop to a particular district. That right was conveyed by popular election. So when the bishops restore a suspended bishop they only restore him to that they had a right to confer, the rights and functions of a bishop in general in the church, but without jurisdiction, which they did not confer at first. It is an assumption to infer that because suspension does not destroy the office, it, therefore, does not alter the relation between a bishop and his diocese. The clear difference between suspension and degradation is granted. The question was whether jurisdiction remained during suspension.

It must be apparent that, as consecration located a Bishop in no particular district, his jurisdiction was not conferred by his consecration. But we are told that the sentence is a nullity. It had not yet been supported by any member by argument. Suppose it is a nullity, who is to pronounce it so? It must be pronounced so by a judicial power, if any, and this House has no judicial power. Therefore the question of nullity has no business here. But why a nullity? Because no duration is assigned. But is this necessary? No gentleman had yet gone so far. The only limit was the prospect, the hope, the possibility of a restoration should be left. There is no such requisition in the canon. The direction is left to the Court. No jurist will suppose that the Court, having power of choice between suspension, was so ignorant of law as not to know that they might suspend, even indefinitely, without degrading. This gets rid of this difficulty. Again, it is agreed on both sides that the sentence is to be regarded as a valid and existing judgment. It must be submitted to, until by a competent tribunal it is reversed. Now, is the Diocese so far vacant that this House may proceed, by legislation, to have the vacancy supplied? It is self evident that the public are not to be deprived of the benefit of offices created for their benefit, on account of voluntary or incurred disability of the officer. The office was made for the good, not of the incumbent, but of the public especially. While the officer is disabled by his own proven misconduct, the public are not to be kept waiting for his possible restoration. By what tenure do our Rt. Rev. Fathers hold their office? By no other than good behaviour. When unfaithful to their trust, they become not only unworthy but unfit; and when that unworthiness is proved by judicial sentence, they have violated the condition of that tenure. It was not lowering the dignity of the Episcopate to say it was held by a tenure which required faithfulness and purity. When it is proved that he is guilty of things it is his duty to denounce, it proves he has forgotten the tenure by which he had his place. The canons which we have for trying bishops proves that their tenure is no other than their good behaviour. But the House of Bishops has no right to disfranchise the community of its rights. Is there not a clear, indefeasible, indestructible right to all the dioceses of the land to the having a bishop? Punishment was a duty—but punish the individuals deserving it, and do not punish the body of the Church by depriving it of its spiritual head. He drew an analogy between this case and the suspension of a Judge, or other civil officer. His place is always filled. The public need cannot wait upon private benefit. No one would suppose it. None! He wished to put the case upon the common sense view. There was no difficulty in producing adjudications on either side. They must be reconciled with principles of immutable justice. But it is said there is no precedent! Be it so. Exigencies will rise occasionally such as previous legislation has not met with. George III. was pronounced a lunatic. It was a new case. There was no precedent. Did any one doubt the power of Parliament to provide for the emergency? Is the diocese to be without a head, a parish without a pastor, is the door of the Church to be shut, and the key thrown away, until the incumbent may possibly be restored by a court? Your regard for a presbyter would be so great that you would have no regard for religion. A whole generation would have gone to their last home uncared for. Bishop Onderdonk may live for twenty years to come. All this time shall the diocese be suffering for an undefined action? When the canons were made it was not anticipated that a Bishop was to be indefinitely suspended for such causes. Or if guilty, it would have been thought that a sentence would have been passed which would have cut off the whole community from the advantages of the Episcopate. No community could afford to have its criminal discipline administered on such terms. The rights of every diocese to Episcopal services are indisputable, therefore they may be legally provided for. There is no law which forbids it. If there be, where is it? Has there been any adjudication, any canon that forbids it? There is none! But we are told that the Church will be in an awkward and embarrassed condition in the possible case of two claimants. But this goes back to the case of jurisdiction, which I have already diposed of. The right of a Bishop to resign his jurisdiction is indisputable. Has he any right to resign his office? It is a grave question. A bishop might, for good reasons, be allowed to resign his diocese, while it would be refused to him to resign his office. As christian men, we are not allowed to neglect the wants of the Diocese. Authorize New York to fill the vacancy, and if the Bishop should ever be restored, he will be one of the highest officers of the Church—one of the radical distinctions between suspension and degradation—without any new consecration. It becomes this House to decide what is due to the Bishop. Now, sir, I find I have almost exhausted myself. But I shall remark that it is not necessary that any limit be assigned to the sentence. It is sufficient that such a sentence may be terminated at any time by the action of the body which had the power to consecrate. Mr. McF. concluded his speech by again insisting that the rights of the Church must be regarded; that there was no *law* against providing Episcopal services for a diocese destitute of them, and asserting there was not intended to be any sinecure in the Church—especially in the case of an unworthy man.

A message from the Bishops informed the House that they had appointed Bishops Doane, Kemper and Henshaw a committee on their part to nominate a Board of Missions.

The pending business was then resumed.

The Rev. Dr. Sherwood, through the courtesy of the deputy from Maryland, briefly to explain the resolution of the New York Convention, said,

I rise, Mr. President, not for the purpose of making a speech, as for that sort of thing, I have little or no tact—besides, we have already had talking enough, and it is now time to begin to act.

Now, Sir, as the little resolution from the Diocese of New York has been the cause of this long protrated discussion; and as the multiplied projects which have been started, and in the wide range of debate which has followed, the New York resolution itself seems to have been almost forgotten, or at least, sadly misapprehended, I would respectfully recall to it the attention of the House.

Before, however, I call for the reading of the resolution, I beg leave to say, that although the question of the guilt, or innocence, of the present Bishop of New York, is a matter which does not come within the province of this House; yet, claiming to myself the right to hold, and especially express, my individual opinions on this subject, I cheerfully yield this right to others; and, while I cannot but regret that my worthy and excellent colleague has felt it his duty to declare here his opinion on this question, it is yet but justice to him to say that the manner in which he did it,—declaring distinctly and emphatically that he spoke only for himself, was worthy of him, and characteristic of his high-minded and independent character.

I also, Mr. President, have my individual opinions on this subject; and, though I have no desire to obtrude them on the Convention, I must be allowed to say that these opinions, if not directly opposite to, are widely different from, those expressed by my colleague; and while I do not say that the *present* Bishop of New York has never failed in worldly prudence, or never been unmindful of the dignity of his high and holy office, I do say that if the crimes charged upon him by responsible persons on the trial, and responsible rumors since the trial, I do not believe him guilty. And in the honest expression of this opinion, with an equally honest desire to see him relieved from the cruel sentence under which both he and his Diocese are now suffering, there will be found, I trust, nothing like *Jesuitism*, either papal or protestant.

But to the resolution—(here Dr. S. called upon the Secretary to read the first of the New York resolutions, and the Secretary not being able to lay his hand upon it. Dr. S. himself repeated it as follows:—)

"Resolved, As the solemn conviction of this Convention, that justice to the Church in the Diocese of New York, as well as its best interests, demands that it be relieved from its present anomalous position." Having read the resolution, the President stated that the speaker had accomplished the object for which he had obtained the floor, and that the order of debate would be resumed.

Dr. S. remarked that he had not obtained his whole object, and asked to be allowed briefly to express his understanding of the resolution just read. Liberty being granted,

Dr. S. proceeded. Claiming, Sir, to know something of that resolution, I desire to call attention to it, that it may be understood by others. For the question has often been asked, What does New York want? And as frequently have I hoard the declaration made, New York desires nothing, for she asks nothing.

Now, Mr. President, if gentlemen will look for a moment at this resolution, they will see, I think, that it does ask for something, and asks too, very distinctly—it asks for justice—for justice not to the Diocese of New York only, but justice to the *Church* in the Diocese of New York—a phrase as well understood here, embracing both the Bishop and Diocese of New York.

Now, Mr. President, in asking that justice may be done to the Church, the Bishop, and Diocese of New York, the resolution supposes that injustice has been done to this Church. Allow me briefly to state the grounds of this supposed injustice to the Church, Bishop, and Diocese of New York.

The resolution supposes injustice to have been done to the Church in the Diocese of New York, on the very enactment of the canon entitled for the trial of Bishops in 1844; said canon being in its nature an ex post facto law, and destitute of all the guards and checks which constitute, in all criminal laws, the security of the accused.

The resolution supposes injustice done to the Church in the Diocese of New York in the first step of the trial had under that canon. I call in question here no man's motives. I am willing to believe they thought they were doing their duty. I must, however, say that in my humble judgment they were sadly mistaken. And I have often asked myself the question, by what influences those Right Rev. Fathers, the Presenters of Bishop Onderdonk, living at the extreme end of our confederacy, could have been induced thus to meddle with our matters? Nor do I think they ought thus to have meddled, however strong may have been their conviction of Bishop Onderdonk's guilt, without the most indubitable evidence that not only the convention of the Diocese of New York, (embracing 240 clergymen, and a still greater number of the most distinguished laity in the Diocese) but also the neighboring Bishops, who, like the members of the New York Convention, had heard these vile rumors, and who well knew the character of the unfortunate man.

Those Presenters, I say, ought not thus to have meddled with our affairs without the most indubitable evidence that not only the Convention of New York, but the neighboring Bishops, had absolutely refused to aid in the premises.

The resolution supposes injustice done to the Church in the Diocese of New York, in the consequent imputation to all the members of the New York Convention, clergy and laity, of a willingness, if not desire, to connive at immorality, and screen a known guilty man from punishment.

The resolution supposes injustice done to the Church in the Diocese of New York, on the whole preparation and process of the trial.

And, above all, the resolution supposes injustice done to the Church in the Diocese of New York, with the nature and consequences of the sentence pronounced by which not only the Bishop, but the Diocese itself, is suspended.

I had intended, Mr. President, to go more into detail upon the grounds of the injustice done to the Church in the Diocese of New York, but aware that I am trespassing upon the courtesy of the gentleman from Maryland, and finding those grounds of injustice, so much more concisely expressed in the paper I hold in my hand, I will adopt them as my own.

Dr. S. here read the two first grounds as found in the Churchman of October 9th, and was proceeding to read them when he was called to order.

Dr. S. immediately yielded. Stating that he had accomplished his object, and therefore cared little for the reading of what he held in his hand, as it was published to the world.

Such, he said, was the nature of the resolution which came from the New York Convention, and it should be remembered that it came to us by a unanimous vote of that Convention.

The resolution, in respectful terms, asked for relief. And it is my settled opinion that no relief will be satisfactory to the Church in the Diocese of New York, short of the unconditional removal of the sentence.

Lift the sentence, Sir, put the Bishop of New York in communication with his Diocese, and my word for it, in less time than we have been discussing this question, this whole matter will be, if not settled, put in a train of settlement, satisfactory to all concerned.

Judge Chambers resumed. He said it had been his purpose to refrain from saying a word so long as the House was occupied with the resolution of the New York delegation. He then alluded to that resolution, because as he understood it was not offered as the proposition of the Rev. gentleman who moved it, (Dr. Forbes,) but as the proposition of the whole delegation.

Rev. Dr. Forbes said, there was no decision on this part of the subject, among the delegation from this diocese.

Mr. Verplanck said that the enquiry whether the canon offered by Dr. Forbes, was not the measure offered by the whole of the New York delegation as their own, compelled him to trespass for a moment, though out of order, on the courtesy of the Convention. That canon consisted of two parts—a positive regulation and a proviso. The first part regulated the effect and duration of sentences of indefinite suspension. This had his full concurrence as expressed at a conference of the New York delegation some days ago. Since that time circumstances not within his control, had compelled him to be absent from the city several days, during a most interesting period of the session. On his return, when he heard the measure presented by the New York delegates read in the house he found it enlarged by a proviso, rendering the first part inoperative if the convention of the diocese expressed its dissent. Of this proviso he wholly disapproved, had he been able to meet with his colleagues, when they adopted it, would have then opposed it. He thought it wrong in principle, and bad in its future general operation as, mixing up personal feelings, and party questions with the decision of a judicial question to be decided according to fixed rules. In its operation on the present case to which it was meant first to apply it seemed to him peculiarly unfortunate. He could not now enlarge upon either of these points, but was content thus to express his personal dissent from that part of the proposition introduced by his colleagues.

Judge Chambers—Then it is to be considered as a resolution offered by the delegation through the member. It had been his opinion that the Diocese of New York being one of the parties more immediately connected with these difficulties, her delegates had a right to be heard on any proposition they deemed it necessary to present for decision, and he had accordingly waived the preference which any measure offered by him might have claimed, and was willing to secure to New York a prompt attention. That proposition was now withdrawn, and it was proper for him as well to vindicate the views of the Joint Committee, on whose behalf he was acting, as to enforce the doctrine advanced in the resolution he had himself offered.

In doing so he should address himself to two points—1st. The Canonical meaning and effect of suspension, and 2dly, The authority to supply the Diocese with Episcopal services.

Before proceeding further, however, Judge C. said he proposed to remove some preliminary difficulties which had been suggested. Much was said of the "justice" due to the New York Diocese—of her "claims to relief"—"Of the wants and necessities of the members of the Church there"—of their natural right to the full enjoyment of all the privileges and services of the Church, and such like. Was there any room, he asked, for complaint of this sort? Can more justice be administered than the laws, and usages, and principles of the Church allow us to grant? Has the Church in New York, or have its members, any natural rights or claims to relief which can be gratified only by a violation of principles which they and we hold sacred? As to cutting them off from the full service of the Church, and allowing them to remain without the comforts and consolations of our holy religion and *all* its rights and Sacraments, he denied in the most emphatic terms that the measure of the Joint Committee would or could produce any such effect. It secured to them the services of an Episcopal head—provided abundantly for the ordination of their ministers—the right of confirmation and every other religious ordinance which any other Diocese possessed. A provisional Bishop could do any thing and every thing which a Diocesan could do.

Again we were referred at every step to the "rights of the people" to govern themselves; they were the source of all power—thay must not be restrained in modelling or remodelling their own organization.

Now, Judge C. apprehended, there was one grand error in all this. Civil government was entirely of *human* institution—all civil power resided in the great mass of the people and could be exercised when and as they pleased. But such was not the case in regard to our holy religion. There were principles established by the omnipotent fiat of the great head of the Church to which all human organization must be subordinate. He had created rulers and governors with authority which even the sovereign people must respect. Yet gentlemen spoke of the Church as if it were entirely a human institution.

(Mr. McFarland disclaimed any such view. He held that the tenure of a Bishop's office depended on the action of the Church, not conventionally, but Divinely impowered.)

Judge C. was happy to hear the gentleman admit that Bishops were by Divine appointment.

Another matter had been alluded to which he thought ought not to influence this question—the character of the sentence pronounced by the Court of Bishops.

He could not perceive how the Convention could act on any other hypothesis but that the sentence was obligatory on all the members of the Church. It was the judgment of the Court of last resort—the tribunal erected by this body with authority to interpret and decide upon our laws without appeal. In every regulated government, political or ecclesiastical, there must be a tribunal to which is delegated the power of finally and conclusively settling all questions arising under their laws, and when thus settled and because thus settled—if there be no force or fraud in the case—they must be regarded as obligatory, and can only be gotten rid of by a movement insurrectionary in its character.

He had occasionally heard persons talk about "leaving the Church"—going to the sects on "dividing the Church." Did such persons think of what they said? Why what is the Church but the institution erected by our Master and Saviour to include his "family" on earth entitled by his grace to an inheritance in the kingdom of glory? Do they mean to put themselves out of this family? As well might they talk of going in pursuit of another natural father or mother whenever they think they have cause of complaint against those parents whom God has given them. No, sir, no—there is no sense in such threats, but there is great feeling, perhaps passion.

Judge C. then referred to his first proposition—the meaning and effect of "suspension" as used in our Canons. And here he had to acknowledge his obligations to the learned gentleman of Pennsylvania, (Mr. Wharton) who had said much on this subject which he should else have urged, and has said it so much more impressively. The House he was sure had felt the force of that argument and he was willing to adopt it as far as it touched this point *verbatim literatim et figuratim*. He would only endeavor to add a word or two to strengthen if it were possible, what his learned friend had urged. He seemed to suppose the term "suspension" was introduced into our Church legislation at a period much later than the Canons would prove it to have been used. It is found in the 4th Canon of 1804—Ecclesiastical contribution by F. L. Hawks, p. 311—and at the close of that Canon it is said "a minister so suspended shall not be permitted *during his suspension* to exercise any ministerial duties in any Diocese," &c. It has been used in all the subsequent Canons passed since that purpose where punishment is provided, and our present inquiry is in what sense it has been employed.

The learned and reverend Doctors from Louisiana and New Jersey and my learned colleague from Maryland, have gratified the House with an elaborate and most able disputation upon the ancient canons, and all the learning of all the ages past, has been explored for definitions and glossaries. It is a matter of pride to us as Churchmen, that we had such men in our midst, and he hoped their speeches would be given to the world as a monument of the learning and industry of our members, but in the views he had of this matter, the question before us must be resolved by reference to the legislation of the American Church, and not by reference to ancient canons or ancient canonists. Whatever meaning or effect was given to the terms "suspension and degradation" in ancient canon law whether "Romish or reformed" their meaning and effect is settled here—settled by ourselves and for ourselves.—From the language of the canon of 1804, down through all the canons which succeeded, and on which he commented, he contended [that suspension was not only a milder punishment but a punishment of a different grade from "degradation." One gentleman had alluded to the difference between "hanging" and "shooting," as illustrative. There was no analogy in this. These were both punishments of the same grade—both capital. Though even in such a case you could not, after a party was sentenced to the less infamous of the two, "legislate upon him" the more odious one, as in the principle proposed here, to increase the punishment by legislation.

He here quoted largely from Dr. Hawk's compilation of the Canons, proving that suspension differed not in degree only, but in grade from degradation. The author's mind, he said, was then unbiassed by any particular question and all its powers were fully employed in bringing out the true meaning and import of the canon. All the terms which mean, or which produce the effect of "degradation" are classed and grouped in his commentary on canon 39 of 1832, pp. 350 "degraded, deprived, deposed, unordained, disordained—reduced to lay communion, etc," and of them it is said, "all these terms substantially meant the same thing." "Suspension" is not in the enumerated class. Why? Not because it was forgotten. It was before the eye of the author,—in the same text,—in the same line.—No sir. Not forgotten but *then* understood not to *belong* to the class; in all that commentary, nay, in all that book there is not the slightest hint that suspension and degradation are the same in form or effect.

[Mr. Williams said Dr. Hawks was not present, and he would therefore say that he had not confounded suspension and degradation in his argument.

Judge C. said the House had heard the argument, and must judge of what the reverend gentleman had said. He claimed for his interpetation of the canon not only the plain sense of the words, but he relied on the most authoritative cotemporaneous construction.—The very men who had enacted the law certainly must be permitted to know what they meant by the words they have used. That meaning must prevail. All laws as well as all contracts, must be understood and acted upon according to the meaning and intention of those by whom they are made. This is the elementary "canon of construction" in ancient and modern times. Now this language has been interpeted by the Bishops who enacted it. No change in the House of Bishops has occurred except by introducing into it one member and he [Bishop Freeman] was then a member of this House

He then read from the opinions of the several Bishops to show that they all regarded suspension as a *milder* punishment and having entirely a different effect from degradation. No man could read those opinions and doubt as to the judgment of the Right Reverend Fathers who expressed them.

He then read from an opinion of Sir John Dodson, and Dr. Herbert Jenner, two of the most distinguished names in Doctors' Commons. This was obtained by his esteemed friend from Massachusetts, Mr. Newton, now a deputy on this floor, during his visit to England, on a statement, not of abstract propositions, but in reference to the precise case of the New York Bishop, in reference to this subject it says, "the effect of the sentence *may* be suspension in perpetuum and be tantamount *so far as the Bishop is concerned* to deprivation or admonition, but the *real effect and construction* appears to us, to be, viz: to prohibit the Bishop from doing any act in his Episcopal or Ministerial character, so long as such sentence remains in force *and no longer*.

After further arguments enforcing this view, Judge C. replied to what had been said about Benefice and Salary. He did not think the question at all involved in such considerations, but he was not willing to allow it to pass as an admission that "we had no such thing in this country as a benefice." He said, in his diocese they had a board of Trustees incorporated by an act of the State government, who possessed a fund the proceeds of which, by the law of the land, were to be applied to the support of the Episcopal office. He supposed there were cases of a similar character elsewhere.

Several persons in different parts of the house answered yes.

It might be a matter of more difficulty than it seemed to be thought by some gentlemen to distinguish such cases from the character of a benefice in England; and it would also be quite as difficult to make it run quatuor pedibus with the case of the day laborer whose hire was divided into aliquot parts, according to the number of hours he was actually at labor.

But he would proceed to his second proposition and endeavor to show that though there was still a diocesan Bishop in New York—a Diocesan in suspense, we could supply the defect of Episcopal services resulting from the suspension, in the mode proposed by the Canon of the Joint Committee.

While he denied on the authority of *all* Canon law as he believed—certainly he thought on the authority of our own Canon law, that there was a vacancy in the Diocese in the broad meaning of the term—a vacancy which voided jurisdiction, he yet held there was a "temporary quasi vacancy," a defect of Episcopal ministration, a suspense of Episcopal jurisdiction. On this subject he knew there were many members who felt deeply. He knew there was an anxious desire to provide means of supplying to the New York Episcopal services while there was a dread of violating the well established Church doctrine, now a *Constitutional* doctrine in our branch of the Church, that one Bishop should not interfere in the Diocese of another without his consent. He asked the attention of his learned friend (Mr. Wharton) to this part of his argument, and hoped to be able to relieve him and other friends from the embarrassing doubts as to their power to legislate in this mode.

The source of jurisdiction has been differently located by different gentlemen. Perhaps it may be that the general jurisdiction of a Bishop may be given by his election and his consecration to office and his local jurisdiction by the election of the particular diocese to which he is assigned with the assent of the General Convention. Certain it is by our Constitution and Canons he can require local or diocesan jurisdiction in no other way. But for his argument it is not necessary to decide whence jurisdiction came.—A Bishop duly elected, consecrated and chosen by a diocese, with the assent of the General Convention, clearly has jurisdiction—no one doubts that. Then having it, he can only be deprived of it by his natural death, by his resignation, or by a judicial sentence, declaring him deprived—here declaring him degraded. Is there anything in the case proposed then, to justify the introduction of another Bishop?—To this question he answered affirmatively. The sentence has produced a partial vacancy—a defect of Episcopal jurisdiction, and by acknowledged principles of Church law and doctrine, and by the authority of acknowledged cases and precedents—uncontradicted as far as he knew, by Canonists, or adjudged cases, or by any dicta, we had authority to supply the defect. All the cases cited shew that the suspended Bishop could be, and was restored, not to his office only, but to his full and entire jurisdiction—not to the name, but to the thing—not to the *right* to be a Bishop in fact, as well as in form, but to the full and perfect enjoyment of everything from which he had by the sentence been suspended for a time. He could not agree with gentlemen on the other side of this question that it could be called a restoration, that which left him deprived of everything but the "title"—left him as they said "a titular Bishop." On this subject we had been referred to the case of a sus-

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The Rev. Dr. Sherwood intended, we presume, to introduce the following resolutions, which were agreed upon by a very large vote at a meeting of the Clergy, Laity, and friends of sound church principles, held on the evening preceding the late Diocesan Convention of New York, and which, had they been brought forward in that body, would have been adopted by a majority of both orders—of the clergy, by a vote of at least two to one! But it was judged that it would be discourteous to the General Convention to act upon them at that time, therefore they were withheld, and not, be it understood, because there was any apprehension of a failure of success in their carriage.

1. Resolved, That this Diocese has never been backward to vindicate its own moral purity, consistently with the canonical provisions of the Church.
2. The intrusion into this Diocese of the Bishops of other Dioceses, not for the extirpation of heresy, or error in religion, but for inquisition into the morality of its Bishop or clergy, is an indignity which has not been invited by the past history of the Diocese, and to which no Diocese should be liable.
3. The punishment of the Bishop of this Diocese for alleged offences not punishable before the enactment of the Canon under which he was tried, is a proceeding repugnant to just and settled principles of law, and of dangerous precedent.
4. The suspension pronounced upon the Bishop of this Diocese, with no limit of time or condition affixed, and with no provision in the Constitution or Canons of the Church for its removal, is contrary to the intent of the Canon under which he was tried, and ought to be declared null and void.
5. A sentence of suspension which deprives the Diocese indefinitely of the benefit of the presence of its lawful and actual Bishop, in the House of Bishops of the General Convention, is an evil, the redress of which is to be looked for, in the first instance, from the General Convention.
6. The General Canon for the trial of Bishops, enacted in 1844, as being deficient in the most important securities for the just rights of the accused, is one that ought to be repealed in order to the enactment of a more righteous canon in its stead.
7. All questions growing out of the suspension of the Bishop of this Diocese, ought to be settled on principles of justice and equity alone.

pended Judge, and asked if a Judge was suspended, would the Court be shut up, and to an officer suspended to whom it is said another officer would succeed. Now, as to the Judge, if any civil community could be so unwise as to enact a law by which all the Judges could be suspended from office, and make no provision beforehand as to whom should perform their duty while they were suspended, the Courts must be closed for the simple reason that Courts cannot administer justice without Judges, and the Judges cannot act. But it will be generally found that where by law one Judge is disabled, provision has been made to call in another—not to appoint a new Judge in his place, because, else on his restoration there would be a Judge for whom there was no place.

So in the case of the senior officer,—if suspended, another officer is called in—not another commissioned in the place of the one suspended, else on his restoration, there would be two officers for the same command.

He regarded the cases of Lord Keeper Williams, and Archbishop Potter, as settling this question. Many more might be produced if he had the cases before him. This book, and Collier, were the only one cited by the learned and Reverend gentleman from Louisiana, which he had seen. It was usual in Courts of law to "produce the book," and it was often found that another page on another case, gave great assistance in discovering the meaning and effect of the citation. We had not that advantage. He would rely, however, on these two cases, though many others would occur to the recollection of members.

The Lord Keeper Williams was suspended—his diocese was not left without Episcopal services until he was restored, and then he was repossessed of all his Episcopal jurisdiction, and lived to enjoy not only all he had for a time been suspended from; but came to greater honor, having been made Archbishop of York.

The Archbishop Abbott was suspended—and here, sir, in this book, is in "hæc verba," the commission issued by other Bishops to supply his Arch-bishoprick with the offices which he was disabled for the time from performing. Now, sir, was there in either case a *new officer* appointed in the place of the one suspended? No, sir. It was known and acknowledged that the suspended officer was still *the officer*—there could not be two Bishops of the same see—there could not be two metropolitans for the same Arch-episcopate at the same time, and what followed? Why, first what we propose to you, an appointment of other existing officers of the Church, of the proper grade, to perform *ad interim* those offices which the suspended Bishops could not at the time perform. Has any one even alleged that the laws of the Church or any principle held by it was violated? No, sir. These cases have been commented upon in all their circumstances, but never yet has the action of the proper authority, in affording temporary supply for the temporary defect in jurisdiction been complained of.

Now, then, if in England, the metropolitan power is sufficient to accomplish this, in cases of a Bishop and the regal power, in the case of an Archbishop, can there be a doubt of our power to do it in the case before us.

He then proceeded to prove that either in the House of Bishops, the General Convention or the Diocesan Convention, or in some or all united, the whole metropolitan and regal power claimed in England was to be found. The Church here had no connexion with the State. God forbid it ever should have. All Church power is in the Church. It must be therefore with Bishops, Priests, and Laymen—that great body is represented here. What the king has in England we have here—what the metropolitan has in England we have here, and we have every power which the English parliament, composed as it is of king, lords temporal and spiritual, and commons, lawfully exercise in reference to the Church. He then referred again to the sentence of the court, to show that the connexion between the Diocese and the Bishop of New York was not dissolved. Bishop Hopkins, says, p. 20—"willingly would I have chosen the lighter sentence of indefinite suspension if that would have relieved the afflicted Diocese of New York from a bond which can no longer be continued with any good results," &c.

Bishop Lee, p. 326, says of suspension—"Such sentence will not dissolve the tie between the respondent and his diocese, neither have the court any power to do this in connexion with such sentence." No, sir, said Judge C., neither have we "any power" to do it.

Bishop Johns, says, p. 327—"He sees not how any one found guilty of such offences can return to the duties of the Episcopate with any hope of regaining confidence or of advancing the interests of pure and undefiled religion," and therefore he is for deposition.

Bishop Henshaw, p. 329, says—"If it were not for the interminable evils which might be expected from leaving the Diocese *in connexion* with a Bishop suspended from the exercise of his Episcopal functions, &c., he might vote for suspension," &c.

The court have ordered their proceedings to be published for our information. Their language admits of no mistake or doubt. No one of them spoke a different sense, nor did any one, any where, to his knowledge or recollection, contend for an absolute and unqualified vacancy, so as to authorise the election of a new Bishop until after the trial and sentence were published. Judge C. concluded by alluding to the apprehensions which had been expressed for the peace, harmony and growth of the Church. He felt no fears on that score. He had seen darker clouds and thicker—he had seen many seasons of darkness and gloom to pass away—the Church was founded upon "a rock," against which the errors of its own members, nor the malice of its enemies, no not the gates of hell shall prevail. We had many of us seen darker and blacker clouds impending over our heads—had heard the howlings of the mad tempest without—had witnessed the anxious heavings of many sad hearts in our midst, hopeless almost of relief, but to the eye of faith there had always been the outstretched arm, to the ear of faith there had been the soothing voice of that omnipotent God, whose sure promise is to be with us while time shall last, and who will now, as of old, say to the warring elements, "peace, be still."

Rev. Dr. Mason rose to address the House.

A motion to adjourn was made, but wthdrawn; when

Dr. Van Ingen inquired, if it would not be well to take the vote at once on the question, whether the diocese was vacant.

Dr. Mason said he did not anticipate that a lock was to be put upon his lips.

A motion was here made that the House adjourn until Monday.

The Secretary then laid before the House the Treasurer's report, and moved that it be referred to the Committee on expenses, which was agreed to.

Mr. Williams proposed to offer an amendment to the substitute before the House, on certain conditions: but we did not understand him as submitting any proposition.

Hon. Mr. Huntington here moved that the House take a vote on the subject under consideration, on Monday at 12 o'clock. If not taken as soon as that, many must leave before action was had.

Several members seconded the motion.

Mr. Williams insisted that they could not take the vote at so early a day. They must see the end of the debate more clearly than they did now, before they could vote understandinggly. He regretted such impatience.

Rev. Mr. Croell, of Kentucky, moved to amend the motion, so as to restrict the speakers on this subject to thirty minutes each.

Mr. Williams said that the constitution guaranteed freedom of debate. This was the first time he had seen an attempt to restrict that freedom. He moved to lay the whole subject on the table; which question was then put and lost.

The Chair was about to put the question on the proposition, when

Mr. Williams renewed the motion to adjourn

The Secretary read an invitation from Henry Erben, requesting the members of the House of Delegates to hear some performance on the organ in Trinity Church, by a number of professional gentlemen, on Tuesday evening next, at half-past 7 o'clock.

On motion, the House voted to accept the invitation, at 5 o'clock on Tuesday.

After several notices had been given out, on motion, the House adjourned to the usual hour on Monday

SEVENTEENTH DAY'S SESSION.

Monday, October, 25th 1847.—The Convention met pursuant to adjournment.

Morning Prayer was said by the Rev. John Murray Forbes, D. D. Rector of St. Luke's Church, New York, assisted by the Rev. Dr. Rutledge, of Florida, reading the Lessons.

The Minutes of the preceding day were read by the Assistant Secretary and approved.

A Canon reported by the Committee on Canons in favor of having Suffragan Bishops was presented by Rev. Dr. Jarvis, the chairman,—who thereupon asked to have sent to the Bishops a request for a joint committee, (the committee to be, on the part of this house, the Committee on Canons.)

Rev. Dr. Jarvis thought the adoption of this Canon would do more to quiet this diocese than any thing which could be done.

Mr. Colston of Va., was of opinion that it was too late at this period of the session, to introduce a new principle in the organization of the church.

Rev. Dr. Mead, the Secretary, explained the object of the Committee, in not having the canon (which is long,) printed before it had been committed on the Joint Committee proposed it was to save time and expenses.

Calls were made for the reading of the proposed canons.

Mr. Evans, (who drew it,) read it at the Secretary's table. It proposes the appoinment of bishops with limited powers, without seats in the house of Bishops, to do all the duties of Bishops in dioceses where there is a necessity of having assistance of the kind. No assistant Bishops hereafter to be elected, in any diocese.

Dr. Hawks.—This canon dispenses altogether with Assistant Bishops—and places Suffragan Bishops in their place, an arrangement in my opinion far more primitive and preferable. I hope it will be referred to a committee, in order that it may be brought in as perfect a shape as possible before the consideration of this House.

Mr. Colston, of Virginia, thought it had better be postponed for the action of the next Convention. It was now too late to take up such an important matter.

Rev. Dr. Hawks. By sending our Committee at once to the House of Bishops, we might report by to-morrow-morning. It does not follow that immediate action should ensue. If it should lie over for three years, however, it would not follow that the Convention would be better prepared to consider it than now.

Rev. Dr. Brooke, of Ohio, thought this was out of order at present. The unfinished business was before the house.

Rev. Dr. Mead moved to postpone the order of the day, in order to dispose of the matter. Carried.

The reference, asked by the committee on Canons, was then ordered.

The same Committee reported on the inexpediency of making certain alterations, proposed, in certain canons, to suit the situation of dioceses situated like this. The necessity of them would be obviated, if the Convention passes the report on the Suffragan Bishops. Laid on the table.

Hon. Mr. Huntington's and Rev. Mr. Gallagher's proposition of Saturday, to take the vote, at 2 o'clock and to confine members to thirty minutes in each speech was brought forward.

Rev. Dr. Brooke was opposed to the resolutions.—He promised not to speak on the main question.—He was afraid all the light he could shed on that would be rather too highly charged with heat, and would be but little towards ridding the subject of its mystification. Others wanted to speak. He knew that the spheres of duty, at home, of many members, were suffering during their absence; that many clerical gentleman here are enjoying the expensive hospitality of the hotels, and are getting reduced in their means, and will soon require "relief for their anomalous position!" all this Dr. B. nothwithstanding, was opposed to checking debate, as Popish and Aristocratic. A great many eloquent gentleman wanted to be heard, and he wanted to hear them; Mr. Ingersoll, Mr. Menninger, Mr. Columbus Delany, and others were named as having speeches to make. He hoped the motion would not prevail.

Rev. Mr. Griswold, of Mo., rose and said the gentleman had made a capital argument in favor of the proposition he undertook to oppose. Gentleman became tedious when they have spoken a half hour, always.

On the Resolution of Mr. Huntington from Connecticut, to limit the speakers to 30 minutes, and that the question be taken at 9 o'clock this evening, Mr. Hudson of Western New York, said—Mr. President, I hope this resolution may not pass. This house will bear me witness that I have been perpetual in my attendance here, and have listened with patient and profound attention to the wisdom and eloquence of others, and I desire an opportunity to deliver my sentiments also. The Rev. Deputy from North Carolina is entitled to the floor, myself and my learned and honorable friend, the Deputy from South Carolina, have attempted several times to obtain the floor, and should we not be more successful before the arrival of the hour for proceeding to vote, where then will be his rights, and where the voice of Western New York? I cannot submit to such injustice. I would not so much object to being limited to 30 minutes, for in that brief space I could do something, and if I had the power of concentration which I think some of the gentlemen who have already spoken possess, I could deliver more useful matter in half an hour than they have given us in their three hour speeches. I hope, sir, the Resolution will not be adopted.

Mr. Memminger said he could say all he had to say in a half hour. He did his wares up in small packages. The purpose of the subject before them ought, in courtesy, to be allowed, after all the others had been indulged at any length. He hoped that the time fixed in the resolution, would be altered to 9 o'clock.

Rev. Dr. Forbes and Rev. Dr. Van Ingen hoped there would be no limitation of the debate.

His Honor, Chancellor Jones, of this diocese, said it would not be just to the Church, nor satisfactory to the public, to precipitate this question. It was no answer to say that members cannot stay. It is the duty of members to stay, and they should have made the proper provision to stay.

The question was taken on laying the resolution (to take the question at 9 o'clock, this evening) on the table. 57 to 56 So it was laid on the table.

A Message from the Bishops was read. The House of Bishops confirming the nominations of Trustees of the Seminary.

The Hon. Mr. Huntington then pressed the proposition for terminating the debate on Tuesday at noon.

Chancellor Jones hoped not. The diocese of New York was desirous of the fullest debate on this question. On some minds sufficient light had perhaps been shed on the subject, but on others perhaps not.

The motion prevailed, and so the question was ordered to be taken to-morrow, (Tuesday,) at 12 o'clock, M.

The half-hour proposition was not pressed.

Rev. Mr. Vail of Rhode Island, on leave, introduced a canon to authorize the election of a Bishop for New York, having full jurisdiction, and providing that in case of the restoration of Bishop Onderdonk, the relative positions of the two bishops were to be regulated by the House of Bishops. After some remarks by the introducer, which were decided to be out of order, the matter was laid on the table, and the order of the day was resumed.

Rev. Dr. Mason, of North Carolina, said the sentence must stand, for there was no court to which it could be appealed, nor any body by which it could be declared null. But he though the remissory power did provide for the difficulty, and he thought he could point out where it was to be found. The question now, however, was whether this suspension vacated jurisdiction. He thought it did not. The gentleman from Louisiana thought indefinite was the same as perpetual suspension as defined by the canonists. His second was that jurisdiction came from the Diocese. The third was, that the constitution and canons of the Church declared the diocese void. The fourth was strengthening the argument from precedent and analogy. The gentleman quoted enough to show that perpetual suspension was substantially the same as deposition, and Bingham proves the same. The gentleman from New Jersey quoted from Espen, to show the contrary. As doctors differ, the case must be decided aside from the canonists, but he inclined to the authorities quoted by Dr. Hawks. He adverted to the early discipline of the Church. The Greek Church called it Kathairesis or a pulling down. In the early church the line between the church and the world was drawn more strictly, therefore, transgressors were apt to be worse than if otherwise. A bad woman is worse than a bad man; a bad woman in this country was worse than a bad woman in France. It was the same with the Clergy—especially in the early days. When they once broke their vows, they were consequently degraded immediately. There was little need of suspension then. The case was different when the morals of the Church became less rigid, as the line between the church and the world become more faint. Suspension was also introduced along with the idea of the indelibility of order. Hence too arose the sentence of perpetual suspension, and its effects were the same as deposition. Degradation was a term of more infamy, but as to the effect on the exercise of the office, their effects were the same. He believed the pæna included penance and excommunication, which censura did not, but he was not sure. He thought that though the gentleman from Louisiana had built another magnificent edifice, yet he had built it upon the sand, for it would appear that there was then no difference between perpetual suspension and degradation. So his argument destroys itself. But he (Dr. M.) believed the sentence was indefinite, but not therefore perpetual. Suspensions might be limited either by time or by condition: and as it is unknown when the conditions will be complied with, such a sentence is of course indefinite. Such cases as this occur frequently. Most clearly have the Bishops a right to pass such a sentence. But no other kind of suspension destroys jurisdiction except perpetual. If indefinite suspension is different from perpetual, which he had just shown, it did not take away jurisdiction. It could not be admitted by common sense or reason, that necessary suspension should take away jurisdiction. It was said that the Bishop deprived himself by his own act. Others said it was by the act of the court. He said there might be a case where a Bishop might be incapacitated by his own act and yet not lose his jurisdiction. He said he did not remember an example in the history of the Church where limited or even indefinite suspension ever vacated jurisdiction. Beveridge's authority was higher than that of the canonists quoted. The case of the Lord Keeper Williams, of Archbishop Potter, and in the Church of Rome, that of the Archbishop of Toledo, during the session of the Council of Trent—all these cases proved that suspension did not vacate jurisdiction. Can the gentleman from Louisiana pretend to say that the jurisdiction comes solely from the Laity?

[The order of the day at 12 o'clock, (Election of Board of Missions) was suspended to allow the Rev. Dr. to conclude his remarks.]

In the case of the Lord keeper Williams, taking it on his own ground, it told completely against him. Even taking it for granted that the king is representative of the laity, it can prove nothing, for the moment the suspension was removed, he returned to his Diocese. Thus the foundation of sand began to go, the walls cracked, the chimneys tumbled, and the house was flat. As to the vacancy—he should like to put it in the form of a syllogism. Even admitting that jurisdiction comes from the Diocese, it does not follow that it is destroyed by a sentence of the House of Bishops. Suppose the Diocese declare itself vacant by an unanimous vote, would that void jurisdiction? Suppose that the Diocese is the grantor of jurisdiction, it does not follow that it could take it way again at pleasure. That was a different question. The case of the Curate had been quoted by the gentleman from Virginia, he believed. He made an analogy between John Thompson and Peter Snivelling—the former of whom was not a regular pilot, and the latter was. The want of commission deprived John Thompson of any right to compensation, though he might be a more skilful man than Peter Snivelling. This analogy would settle the case of the Curate. Unless we would take the full congregational platform, we must agree that *all* the Episcopal prerogatives and jurisdiction among the rest, came from the Apostles. He showed how the Apostles by their own consent regulated their jurisdiction, and St. Paul gave it to Titus and Timothy. It was found inconvenient to exercise the ministerial functions at large, though this custom lasted longer in England than elsewhere. It was terminated about the time of Archbishop Theodore. It was by the consent, not by the gift of his Diocese, that he received his jurisdiction. The Bishop of China received his jurisdiction, not from the Chinese, but from the House of Bishops. Every Bishop was, according to St. Cyprian, a Bishop in the Church of God by virtue of his consecration, but the limitation of his jurisdiction was a matter of human regulation.

The opinion of the Bishops as to the effect of their sentence, in reference to the degree of punishment, was the next point adverted to by the Rev. Dr. Mason, in continuation of his remarks. He agreed with Messrs. Chambers and Wharton, as to the force of that action, as cotemporaneous exposition. He was of the opinion that this was an indefinite suspension of jurisdiction, which he resumes when the suspension terminates, but which can be given to nobody else. The speaker went over, and rendered stronger the arguments deduced from naval and military officers, &c. As to the position of New York, it had no effect on his opinions, whatever. He had no doubt that it was even a worse position than had been represented here. He held that Right is always expedient. The first question, then, is whether a proposed action is right or wrong; that decided, the right is to be followed, the wrong rejected. "The beginning of strife is like the letting out of water," says Solomon; and the evil is incurable, often, that commences with very small beginnings. And from this the Rev. speaker argued on the importance of being cautious in action relative to this Diocese. He was opposed to making a provisional or Diocesan Bishop, in this Diocese; he was opposed, at the same time, to forcing on the minority, even, of this Diocese, a Bishop whom they believed to be criminal. The difficulty of this case had arisen from the unacquaintedness of the Bench of Bishops with Episcopal delinquencies. It was a new case to them. The Grecian lawgiver, being asked why he did not make a law against parricide? said because the crime was impossible. This Diocese is under a cloud, but this has not arisen from the moral fault of the Bishops,—but from a sin of ignorance; a cloud from which the Sun of Righteousness, with healing on his wings, will yet relieve her.

Mr. Ingersoll rose to explain the character and purposes of the propositions he had laid before the Convention. He did so at this late Session, almost as a mere matter of duty. He not succeeded in obtaining the floor at a more suitable period, and he must now be content with seeking an office from probably reluctant ears, when he could not gain even his own consent to his making an explanation as extended as the intrinsic importance of the subject, without any reference to a natural design upon his own part to be properly understood, might justify.—The Diocese of New York asks for relief. It addresses itself for that relief to a legislative body. It expects relief therefore of a legislative character. In the nature of the thing it can have no other. The proposition which he had submitted was consequently in the shape of canons. These are the legislative acts of an ecclesiastical Convention. The Diocese, besides, founds its application upon its declared anomalous condition. Mere ordinary legislation, analogous to that of every day's action, is not expected, and would not suffice. If the situation of New York presented the case of a mere vacant Diocese, the remedy would be obvious in the resort by virtue of existing laws to an ordinary election. It it were the case of a Diocese not vacant in any sense, or in the judgment of any body, but defective in its functions for example, by reason of the old age or permanent infirmity of its Episcopal head, a remedy would not be less obvious in the choice of an assistant Bishop. No legislation is required for either of the proceedings. The very necessity for an application by New York, and for reluctant and responsive interposition by this body, grows out of an unusual state of things the parties themselves agree, if the agree in no thing else, in calling an anomaly. When a proposal was made a day or two ago, to take a vote upon the abstract question of vacancy or no vacancy, it was objected to as not at all calculated to meet the difficulty. Some are of opinion that there is an absolute vacancy. Others view the case as one of *quasi* vacancy. Others again, unwilling to be involved in difficulties which all regard as abstract, and most regard as unnecessary, prefer voting directly and fairly upon the subject itself in its practical application and character.

To the course proposed, Mr. Ingersoll said, he had heard but a single objection;—namely: that the Diocese of New York, was not unanimous in desiring any particular course of action. To this he answered that the Diocese was certainly unanimous in calling for relief, and in declaring that justice required it at the hands of the general Conveution. Of course there was no universal or even general concurrence beyond this, or they would have relieved themselves. Hercules was not applied to, until they had in vain applied their own shoulders to the wheel. Positive unanimity on such questions was not be expected, and in popular assemblies was rarely found. If the agency of this body were officiously to be tendered, he would be the last of its members to think of it. It was invoked with earnestness and unquestionable sincerity and in consenting to exercise it, the general Convention would do no more than an act of kindness as well as justice, which it has no right to withhold, and which the suffering Diocese has a perfect right to demand.

In listening to the voice of entreaty uttered by friends and fellow-Christians, a desire would naturally arise that they should, if possible, be provided with means to help themselves. Accordingly, the resolution prepared, looks essentially to that particular object. While it legislates into existence the power which at present is wanting, it does not legislate out of existence the existing power of the particular Diocese, or interfere with their transacting their own affairs in their own way. It simply enables them to act at a period, and under circumstances, when self-operating vital function is suspended and cannot without assistance, re-exert her innate energies. It provides them with the means of doing, but designs that they shall do exactly as they like.

Thus, the proposition is so framed as to meet the wishes of either of the parties which are said to compose the body of Churchmen in the Diocese. It presents what the lawyers would call a contingency with a double aspect. It was prepared at first in the shape of one canon. By that plan the Diocese would have been enabled to proceed to the choice of a Bishop without postponement or preference for any individual. If the choice should fall upon the person now suspended, subsequent proceedings would assume the form of restoration; and the preliminary requisites being complied with in the exhibition of testimonials from the Diocesan, and this portion of the general Convention, the House of Bishops would give the final and effectual ratification. If the choice should fall upon another person, every thing would be done that an ordinary election requires, and on the completion of the arrangements the Episcopate would be full to every possible purpose, and the suspended Bishop would remain under sentence of suspension. Better experience iu the canon law has suggested the propriety of separating the provisions and it has been done accordingly in the two canons that are at length fairly under consideration. One of them contemplates the possibility of restoration, and provides the means if it be possible for its accomplishment. It seems to be especially proper that the suffering Diocese should, if it thinks proper, take the initiative. It is composed of the more immediate neighbors of the party. They can best judge of his claims, and of the tendencies of the vast flood towards a re-instatement of their Shepherd. They are a jury of the vicinage who can appreciate the merits of the case in all of its interesting bearings. This is one branch of the alternative. It is believed to be free from technical embarrassments, and to lie under no objections unless they are substantial in their character. The other and the shorter canon supposes a *quasi* vacancy. It admits the necessity of a powerful remedy, and it authorizes the Diocese to proceed to the election of a Bishop.

This suggests at once the enquiry whether such a vacancy exists as to permit the proceeding. Of the vacancy in fact, to all practical purposes,—to the entire destruction of all the uses of a Bishop, there is not the slightest doubt. The strong metaphor of the reverend gentleman who, at the opening of the session, appeared as the exponent of the sentiments of the Diocese, depicted its condition as worse than headless. Destitute as it may be in fact, the point is made that no such canonical vacancy exists as to permit the application of a canonical remedy. Something is supposed to continue vested in the former incumbent, which cannot rightfully be taken away. This is the chance of pardon. This slight and precarious contingency may be compared, for the sake of the argument, to what the case in one of its departments would call a *spes reciperandi*, and in another a *scintilla juris*. Something exceedingly small, and not to be estimated, while yet it is not without an undefined value. Taking for a moment the illustration, does it really present a difficulty? If it be so remote and uncertain, is it interfered with by an interposing incumbent? On the contrary, may not the good order and harmony which such an interposition would cause, tend to augment rather the ultimate probability, while it postponed immediate action? It would assuage angry feelings, in others, and allure the individual to peaceful reflection. But in truth the chance of restoration is too vague to be made the subject of confession. It is less than a hope. It is but the shade of a shade. It is not a right, perfect or imperfect. No contract could be founded on it. It is merely a grace, a favor: something vesting in inclination, and neither to be calculated on, nor promised, except in the dreams of distempered fancy. It has no reality in possession or prospect, and cannot be treated in any respect as a subsisting valid thing.

Besides, if it were more of a substance and less of a shade, it would still be subject to legislation. Pardon, however provided, is not free from or above the law. It may be a power vested in one branch of a government to-day, and in another to-morrow, and the next day it may be taken from all. Vested rights are no where infringed by its departure, any more than they are created by its existence. Its exercise is a free will offering at all times, which cannot be demanded or enforced.

Passing from the power of the Convention to provide relief for an obvious and acknowledged evil, it is necessary to see precisely what that evil is. The case is one of a suspended Bishop. The mere general term "suspension," may not however, adequately convey the idea of his situation, and it is well to turn to the sentence itself. It solemnly pronounces and declares that the Right Reverend individual is "suspended from all exercise of his episcopal and ministerial functions; the sentence of this Court upon the Respondent, is, suspension from the office of a Bishop in the Church of God, and from all the functions of the sacred ministry." These are all comprehensive words as to the objects and powers which are denied to the Respondent, all that can be regarded in any respect ambiguous to the character of the *denial* itself. Is it peremptory and absolute, or is it qualified and limited? Authorities are at hand to show that the term suspension is applicable to either result. The sentence itself shows the large and more absolute sense. All that remains is to ascertain whether in this American Church it will bear that large meaning. It cannot be denied that a term which admits of two such senses is, when used alone and without qualification, to be taken in the most extended one. An estate in *fee* is not one of the several minor estates of that name, but is a fee simple or unconditioned and requires words of limitation to restrain its comprehensiveness. The word "heirs" covers every description of heirs if used alone, and must be expressly qualified iu order to restrict a devise or grant to heirs of a particular character. Does not "suspension," when used by itself come within the same principle? It has been argued that greater strictness is required in the construction of penal sentences and decrees than others. This is a mistake. Strictness of construction is required as to penal "statutes," but it extends no farther. Sentences are sometimes the loosest things imaginable, even where rigid power usually obtains. A record which consigns a man to death is made up of three little abreviations mentioned in elementary books, so unmeaning in themselves as "sus: per: col." These might be carried out to signify any thing else, yet they are understood and interpreted as fatally as they are loose. In the English canon law the word "suspension," sometimes meant temporary and sometimes perpetual exclusion. In its latter sense it resembled in this latter respect—its perpetuity—degradation—or deposition. From even these last heavy penalties the individual sentenced might be relieved. Cycil, in his letter to John of Antioch, (says John Ayliffe, in his Parergon Juris Canonici Anglicani, page 207,) gives us several instances of Bishops deposed and afterwards reconciled or restored to their former Churches. In the American Church a different rule exists by express legislation. The 39th canon of 1832 after making "deposition, displacing, and all like expressions," the same as degradation, enacts that "no degraded minister shall be restored to the ministry." A difference in our Church between suspension and deposition is therefore manifest. Under the former restoration may take place. Under the latter it cannot. When the Bishops inflicted the penalty of suspension they inflicted a milder penalty than that of deposition because it was susceptible of remission or removal, but while it would last would be equally exclusive of all the functions of the ministry. It separates the connection but does not finally and forever dissolve the bond. There is no want of analogy in this. A penalty under one general name may be applied and used for different purposes.

Imprisonment is a punishment for the deepest crime and a consequence of the merest misfortune. A murderer may be imprisoned for life or a long term of years; a vagrant who is no otherwise criminal than in having no visible means of subsistence is imprisoned for thirty days. Death is the penalty for certain offences in England, with power in the Court as to some of them to commute it into transportation. Death was at one time in the same country either without benefit of clergy or with benefit of clergy. The difference is obvious, while the apparent and, in some respects the real identity is clear. Suspension excludes from all the functions of the ministry. So does deposition. Suspension contains a redeeming spirit by the aid of which the condemned party may be restored. Deposition has no such recuperative energy. While each exists, it fully resembles the other in all its attributes. Yet the sleep of one may be ended by a remote and improbable possibility, the sleep of the other is the annihilation of death. It is a provision of wisdom as well as kindness that the extreme severity of the law may be averted while its majesty is vindicated and its purposes preserved. The arm of justice raised to strike the fatal blow which cuts off the offender forever is stayed by his removal from the irrevocable infliction. All the claims of justice are satisfied, while mercy asserts her gentler sway.

It is no objection to a statute that a phrase is seemingly superfluous. Were the term suspension in the Canon a mere pleonasm, it would not justify its rejection. Almost every legal paper, whether a plea or statute, falls into redundancies rather than incur the opposite danger of deficiency.

With these principles in view, the Court of Bishops passed their sentence. They meant, legally and judicially meant, we are not at liberty to look into mental reservations, or even to imagine that any such existed,—they judicially intended what they judicially said,—suspension from all the functions of the ministry. They were perfectly familiar with the term suspension, and had given, in more than one recent instance, a practical interpretation. Within three months, these same Bishops had passed a declaratory Canon, fully explanatory of their idea of the meaning and effect of such a sentence. All parties united in this unquestioned interpretation.—The Canon was reported from the proper Committee by the Bishop of Ohio, who is understood to entertain one set of views, and it was passed at the instance of the Bishops of North Carolina and New Jersey, who are understood to entertain another set of views as to church government. The proceeding of the Bishops may be found at p. 143 of the Journal of the General Convention of 1844, and it runs thus:—

"Bishop McIlvaine, from the Committee on Canons, reported the following Canon, entitled, "Of the effect of Suspensions from the Ministry upon Jurisdiction."

CANON.

Of the Effect of Suspension from the Ministry upon Jurisdiction.

Section 1. Any Bishop, Priest, or Deacon, who shall incur the penalty of indefinite suspension from the exercise of the ministry by the proper authority, shall be thereby held incapable of Jurisdiction, whether parochial, or Diocesan, during the continuance of such suspension, and shall be voided of any Jurisdiction vested in him, at the time of his suspension, by the sentence duly awarded and pronounced.

Sec. 2. In case of the limited suspension of any Bishop, the Standing Committee of the Diocese of such suspended Bishop may apply to any Bishop, or Bishops, of this Church, to perform Episcopal duties within such diocese; which duties shall be reported in writing to the Convention of said Diocese, at its annual meeting by the Bishop or Bishops performing the same.

Sec. 3. In case of the limited suspension of any Presbyter of this Church, having charge of a Parish, the Wardens and Vestry of the Parish of such suspended Presbyter, may apply to any Presbyter or Presbyters of this Church, to perform Parochial duties, within such Parish, which duties shall be reported in writing to the Bishop of the Diocese, in which such Parish is located, at its annual meeting, by the Presbyter, or Presbyters, performing the same.

"Whereupon, on motion of Bishop Ives seconded by Bishop Doane,

"Resolved, That the Canon, as reported, be passed.

Mr. Ingersoll said that his object was to show the almost immediately previous manifestation given by these prelates as to the meaning of language which they were soon to use. The Canon thus prepared by them, he presumed unanimously, was declaratory in its character. Opposition was made to it in this lower House. He was not a member and did not know what that opposition was; nor did it matter, as to his argument, what it was. If this House had designed to express a different interpetation of the term "indefinite suspension," the parliamentary course would have been to introduce the word "not" before the words, which in the proposed canon declared it to mean that the individual suspended should "be thereby held incapable of jurisdiction." Suffice it that the canons went back with the first and third sections struck out. A natural inference would be that this house considered them merely unnecessary. Farther proceedings of the House of Bishops appear on page 146 of the journal.

"The House of Clerical and Lay Deputies respectfully inform the House of Bishops that they have concurred with the House of Bishops in passing the canon transmitted to them, entitled, 'Of the effect of suspension from the Ministry upon Jurisdiction,' with the following amendments, viz:

"1. Strike out the First and Third Sections thereof."

"2. Strike out the word 'limited' in the first line of the Second Section."

"Whereupon, on motion of Bishop Onderdonk, of New York, seconded by Bishop Brownell,"

"Resolved, That this House non-concur with the House of Clerical and Lay Deputies in their amendments to the canon entitled, 'Of the effect of Suspension from the Ministry upon Jurisdiction."

Now, asked Mr. Ingersoll, what did they mean by this? Why, simply that it was a declaratory canon, and so unnecessary.

Chief Justice Jones here said that he was a member of that House, and that it was not on the ground, at all, that this non-concurrence was voted.—It was on principle, purely. The House thought it was introducing a new principle into the church. There was a conference between the two Houses, and the canon failed.

Mr. Ingersoll said that those might have been the reasons why the honorable gentleman voted for the nonconcurrence; but perhaps not those of the majority.

Judge Chambers here rose, and asked the attention of the House to the upshot of the matter. The conference between the two Houses was held, and on page 160 of the Journal of 1844 the result will be found in these words: (from the Journal of the House of Bishops.)

"The following Report was read:

"The Committee on Canons appointed to act as a Committee of Conference with a Committee of the House of Clerical and Lay Delegates, on certain amendments made by said House in the Canon sent down from this House, entitled, 'Of the effect of Suspension from the Ministry upon Jurisdiction,' report that they have concurred as directed, and see no prospect that this House will be able so to modify the Canon under consideration, as to free it from the objections made by the other House, without destroying its essential character.

"Your Committee, therefore move that they be discharged from the further consideration of this subject.

"CHARLES P. MCILVANE, Chairman."

"Whereupon, on motion of Bishop McIlvane, seconded by Bishop Gadsden, the above motion was agreed to."

And so the matter dropt.

Mr. Ingersoll proceeded. The action of the House of Bishops goes to show their idea and view of the operation of suspension, on jurisdiction; and that is the question between us. If this House differed, which does not appear, the argument and the conclusion from it, remain untouched. It would be strange if some differences of opinion did not exist in this differing house but at that time and independent of personal considerations, which are now interposed, if any difference in "principle purely," existed, it must have been so slight and shadowy as to leave no mark behind it. This House, however, has pronounced no judicial sentence and its opinions, whatever might be the abstract respectability of them have no influence whatever on the present question. The opinions of the Bishops are a very different thing. They composed the tribunal itself, whose intentions are in question. The subject is rendered, if possible, still clearer by another proceeding of the same Right Reverend Body. In page 172 of their Journal is recorded the sentence pronounced on another prelate. This was preceded indeed by resignation, but the sentence is not affected by it, and nobody, I believe, has ever questioned its regularity, design, efficacy, or permanence. It too may be removed, but until it shall be, deposition could not be more complete or comprehensive.

A report of the Committee appointed by the Standing Committee of the Diocese of New York, requires here some notice. It is there declared [page 6] that the English courts agree with a definition quoted from the "text writers as appears from the case of Fleming and Owen, (1. Thilimore's Rep: 277, &c.) where it is decided that a suspension, sine die is voied." The Book of Reports does not sustain the reference. An expression is used by counsel in argument, similar to the one quoted by the Committee, but after a careful examination, Mr. Ingersoll said he could find nothing like a decision of that or any other court to the effect declared. If an Ecclesiastical Court had indeed so decided, it would be of great force. As it is, mere definitions are to be formed both ways. It would be strange if they were not. In the long lapse of time, words are applied variously, and sometimes unergo an entire change of meaning. The words "prevent" and "let," as now used, are the opposites of what they were formerly. It is enough that you find authority for either signification, to justify the use of it and to sustain the particular sense of a sentence which was evidently designed by the particular tribunal. The Court of Bishops had before it, explanations of the term "Suspension" limited and "Suspension" general. They might use either. With the first, they must couple a qualification as to time or circumstances. With the other, they might couple nothing, and it would operate as a deposition subject to be revoked. It is true that various cases of limited suspensions are found in Gibson's Codex Juris Ecclesiastici Anglicani, pp. 867, cap: 11—ab officio sit suspensus donec illud duxerint revocandum.

Pp. 785, cap: 1.—quod si contrafacerint, donec totum testituerint ab officio sint suspensi.

Pp. 952, cap: 1. Episcopus vero contra dicta commendans donec commendationem revocaverit, a collatione seu presentatione beneficiorum quorumlibet sit suspensus.

Pp. 943,—alioquin a Collatione et Institutione ad ipsum in quibuscunque Beneficios spectantibus, quousque revocaverit sit suspensus, Jus Conferudi ad proxcinum Superiorem clevolvendo. Jus conferendi ad proximium superiorem devolvendo quod si de his nihilominus intromiserit etiam ab ingressu Ecclesarum Sit Suspensus.

Pp. 965, cap: 2,—verum etiam ipse, quousque revocaverit, ipso facto a collatione Institutione Seu Presentatione beneficiorum quorum libet Sit Suspensus, &c, &c, &c.

But on the other hand,

Pp. 1024, cap: 2,—pœnam Suspensionis ab exercitio Jurisdictionis hujusmodi, necnon ab ingressu Ecclesiæ incurrat ipso facto.

No matter what the particular crime or the particular criminal, this last quotation is intended to show the meaning and the use of the word—its application to the word *pœna*, and the effect upon jurisdiction.

Mr. Ingersoll begged leave here to turn to another authority of at least equal weight, which appeared to be full to the point. Ayliff thus speaks:

"Pope Alexander III., lays it down as a rule in law, that Clerks making a judicial confession, or convicted by legal proof, of certain crimes, that decisive suspension or deprivation, may be suspended from their office, removed from their orders, and deprived of their benefices, by their own proper Bishop: and the Abbot observes that such a suspension or removal, is a perpetual deprivation. This is the greatest punishment that can be inflicted in the Ecclesiastical court, and therefore, it is never inflicted, but in the cases directed by law, or for some very grievous offence, which we call *enormous.*"

Ayliff has a whole chapter on this subject. Mr. I. said as the book was not universally accessible, he would give quotations from it somewhat at large.

Ayliff—"*Parergon Juris Canonici Anglicani,*" p. 501; "Of suspension and the several distinctions thereof."

Suspension taken in a proper sense, is an ecclesiastical censure, whereby a spiritual person is either interdicted the use of his ecclesiastical functions, or hindered from receiving the profits of his benefice:—And suspension may be either ab officio or beneficio, and sometimes it is both. Again, suspension is either total or in part, forever, or for a time only. When 'tis forever, it may be called *Deprivattion*, or *Amotion* as it often is in our books, but when it is for a time only, it is properly termed *Suspension* &c.

It is an impediment to the use of that power which any one has already acquired, p. 502. And it is said in this definition, *in totum*, or *in part—forever*, or *for a time only*, to advertise us of the latitude of suspension: For in strictness of speech he is said to be suspended, who is suspended from his office or benefice, or from both, as it happened for a time only and not forever. And thus according to the opinion of some lawyers, there is the like difference between *Deprivation* and *Suspension* in the Canon law as there is between *Deprivation*, which is perpetual, and *Relegation* which is only for a time in the civil law.

Suspension is manifold according to the aforesaid definition. For *first* &c., ab officio, &c. *Secondly* a *Beneficio*, &c. Third, *ab officio and beneficio simul.*—Again, there is one sort of susepnsion *in totum*, whereby a person is deprived of the whole use and entire exercise of his office, and the other is a partial suspension from his office, &c. &c. &c. *Penal* and *Medicinal*, &c. *Greater and lesser.*

P. 502. Suspension *ab officio and beneficio*, is sometimes decreed *absolutely* and *simply* and sometimes it is determined by that time which is given for making satisfaction or restitution. Thus, if a person shall be suspended by the Judge's sentence till such time as he seall make satisfaction, he shall in this case recover his office and benefice immediately after he has made proper satisfaction, &c.

Suspension sometimes is only *ab officio*, and then it is sometimes decreed either *simply and absolutely*, or else sometimes only for a year, and sometimes for three years, &c. Suspension is also a *Beneficio* only; and then 'tis sometimes *simply* decreed, and sometimes it is limited to six months and sometimes to three years, &c.

Clergymen who are *public* [ ] are by the canon law suspended *ipso facto*; and so are heretics and schismaticks. But then this suspension being perpetual is the same as deprivation. But when clergymen are suspended for applying themselves too greedily to the getting of filthy lucre and sordid gains, (as they may be) or are suspended for contumacy and disobedience to the lawful commands of their superiors, their suspension is only for a time, and absolution follows when they yield obedience thereto.

These expressions do not differ from those cited by the reverend gentleman from Louisiana, from books particularly accessible to him in a place which having been in its early and long continued settlement, Roman Catholic in its discipline, had like the monasteries of the middle ages, preserved much of learning not readily to be found elsewhere.

A sentence such as that which had been pronounced, was appropriate to an offence such as was charged. It was neither necessary nor proper to look behind that sentence or that charge, to find the evidence of guilt. A competent tribunal had passed upon it, and proof and its competency lies at the door of those who composed the court. It would not be easy to conceive a more grievous offence on the part of a Bishop. Looking at it in this light, the question which now divides the diocese and the church at large, the question which is presented to this legislative assembly for indispensible opinion in the shape of action or omission, the question of primary and paramount importance is a question between discipline and morality.

On the one side it is insisted that a dry and disputed rule of discipline shall and must prevail to the exclusion of all sense of decency, morality and purity. On the other it is insisted that the everlasting principles of moral truth and spotless virtue shall be sustained. Discipline is at the best one of the "many devices in the heart of man." Morality, the offspring of religion and virtue is "of the council of the Lord, and that must stand." There is at this day no escape from the grave alternative. Constantine, in his zeal for the early church, declared that if he found a Bishop guilty of the foulest sin, he would protect him with the sanctity of the Imperial purple. The power of Constantine, if it could thus be exercised, has happily passed away. The reproach and scandal arising from the act are no longer to be controlled. They have passed to the four corners of the world. Nothing remains but the performance of a duty in relation to an act which Mr. I. said he would not venture in his own language to describe. But if t were such as the allegations and the sentence declare, it was in language written centuries ago, but suited to the occasion.

"Such an act,
That blurs the grace and blush of modesty;
Calls virtue hypocrite; takes off the rose
From the fair forehead of an innocent love,
And sets a blister there; makes marriage vows
As false as dicers' oaths; O! such a deed
As from the body of contraction plucks
The very soul; and sweet religion makes
A rhapsody of words."

THE CHURCHMAN.

NEW-YORK, SATURDAY, OCT. 30, 1847.

☞ Until further notice all letters or communications upon business with this paper, are to be addressed as follows:

"To the General Agent of The Churchman, Churchman's office, No. 12 John street."

The proceedings of the General Convention, which, thus far, we have reported in full, have extended to such an unaccountable length, that with all our enlarged efforts to keep pace with the House—by sending forth a supplementary number of the Churchman and an *Extra* to boot, we are still unable to lay before our readers an account of more than, perhaps, one half of what has been said or done! Obliged, therefore, thus to halt, having gone far beyond the extent of our tether, we can only now state, in the abstract, that the discussion which ensued on the introduction of the Canons of the Joint Committee, in reference to the anomalous position of the Diocese of New York, terminated in the overthrow of one and all of the various propositions presented to the House, and the final adoption of the Committee's Resolutions. On the Canons, introduced by the Hon. Mr. Ingersoll, who, contrary to our expectations—derived from the tenor of his speech on a previous day, assumed an *antagonistic* position to our own views of the question before the House; which were intended virtually to declare that the Diocese of New York was vacant; and that it was competent for our Diocesan Convention to proceed forthwith to the election of another Bishop, the vote stood thus—on the first Canon:

Dioceses—28 Clergy, ayes 7, noes 17, divided 4.
" 25 Laity, " 10, " 14, " 1.

On the second Canon:

Dioceses—28 Clergy, ayes 5, noes 20, divided 2.
" 25 Laity, " 8, " 15, " 2,

showing, most conclusively, since this was a test vote, that the Church in the United States is sound at the core, and that right principles are *still* in the ascendant!

We are happy further to remark, that the christian temper and moderation of the House have raised the Church in the estimation of even those who are not within her pale. There has fortunately been no display of bitterness, or of that acrimony which might have been anticipated, considering the excitement which has attended the case of the Bishop of this Diocese, from the very beginning, and the unhappy controversies which have grown out of it. On the contrary, when the House was about to take the question upon the resolutions aforesaid, and when the truly venerable and highly respected Deputy from Connecticut, the Rev. Dr. Jarvis, implored the members, before they proceeded to cast their votes—in tones of earnest entreaty—to keep silence for a space, and to spend a few moments in silent prayer—not a sound was heard—not a breathing seemed to escape from any one present. Such a solemnity was seldom or ever witnessed—such an occasion can not be described,—"the effectual fervant prayer of a righteous man availeth much." It is known to God alone how much the Church is indebted to this *opportune* occurrence, for the happy result which has thence ensued. It seemed as if each and every one was brought nearer to his death bed and there by to the day of judgment.

The Convention closed its session on Thursday evening the Pastoral Letter having been read io the House, and its business concluded with the usual religious exercises.

HEBREW TALES, *by Herman Herwitz.* Spalding & Shepherd, 189 1-2 Broadway. 12mo.

This is the first number of a new "Select Library" to bear the name of the publishers. It consists mainly of moral tales, anecdotes, and apophthegms, translated from the Talmud and other Rabbinical sources. An essay by the translator is prefixed, which undertakes to demand much more respect for the uninspired literature of the Hebrews than has been customarily given it. He explains very ingeniously some of the Rabbinical fables, though we are not sure that a clever Mohammedan could not in the same way vindicate the Koran, and discover in its most childish trifling, deep moral and philosophical truths.

Church of St. George the Martyr.—The Right Rev. Samuel A. McCoskry, D.D., Bishop of Michigan, will preach at No. 45 Howard street, on Sunday evening next, 31st inst.

Divine Service to commence at 7 1-2 o'clock.